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*Edited and Published by :*  
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## Land Revenue System of Ladakh Under the Dogras

By : Shri Sat Pal

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Ladakh—the moonland also known as *Lada*, *La-Tags*, *Maryul* or low red lands, is situated to the north of India and lies in the Indus Vally basins between 32° 15 to 35° Latitude and 75° 15 to 80° 15 Longitude.<sup>1</sup>

With regard to its history, the first mention of the country seems to had been made by Herodatus, the father of History, who described Ladakh — a land of wonderful ants who in burrowing out their houses in the earth threw up gold. Its history until its conquest by Raja Gulab Singh in the first half of the nineteenth century, is intimately connected with Tibet, with which country it held commercial and religious relation. Stories are told of invasions in the seventeenth century by the neighbouring Baltis, sometimes successful and sometimes repulsed. About the end of that century the Ladakhis called in the aid of the Governor of Kashmir to repel the *Sokpos*, a Mughal tribe. Help was promptly given and the *Sokpos* were driven out of Ladakh, after which it paid tribute to Kashmir and later on it was annexed by Raja Gulab Singh<sup>2</sup>

No doubt much has been written and said about it than about any other altitude region of India. However, the land revenue that existed in the land has not properly been touched upon so far by the scholars. The article endeavours to give in a brief discription of the taxes which prevailed in Ladakh before and during the Dogra regime

Ladakh, prior to the advent of the *Dogras*, was ruled by *Gialpos*<sup>3</sup> who

1 *Gazetteer of Kashmir and Ladakh*, Reprint 1974, New Delhi, p. 531, see also Massnain, F.M., *Ladakh: the Moonland*, 1977, New Delhi, p. 2.

2 The Imperial Gazetteer of India, Vol. xvi, 1908, Oxford, p. 8.

3 *Gialpos* the Native Rulers who ruled Ladakh before the advent of the *Dogras*.



charged no tax on land.<sup>4</sup> Instead of land revenue, the tax called *Khral*<sup>5</sup>, *Thang* or *Sha* was levied on the dwellings and was collected partly in kind. *Brukhral*, and partly in Cash, *Nul Khral*. But the poor classes who were unable to pay either cash or in kind were obliged to pay by manual services as labourers.<sup>6</sup>

The tax in cash (*Nul Khral*) was regulated according to the sizes of the dwellings which had been divided into three different sizes. For a large full sized house (*Khang Chhen*), there was a charge of seven rupees, for a small i.e. middle sized or half house (*Phyedu* or *Phyed*), three and a half rupee and for the smallest i.e. a quarter house, and three quarter of a rupee<sup>7</sup>.

Under Gialpos' rule these were reckoned 18,000 paying houses of which<sup>8</sup>:

	Rs.
400 of large size paid Rs 7/- each	= 2,800
1,600 of middle size paid Rs 3½/- each	= 5,600
16 000 of small size paid Rs 1¾/- each	= 28,000
18,000 houses paid	= 36,400

Each house, therefore, paid a mean rate of two rupees per annum but partly from various remissions of taxes and partly from the inability of the poorer classes to pay, excepting by bodily service, the total amount of house tax rarely exceeded Rs 30,000<sup>9</sup>

In addition to the 18,000 paying houses, there were about 4,000 houses alienated for the support of the numerous monasteries, and about 1 000 for the maintenance of the various members of the royal family.<sup>10</sup> The Gialpos had their own villages which contained about 1,000 houses or more. The whole number of dwellings in Ladakh therefore was about 24,000<sup>11</sup>

The poor classes who were unable to pay either in *Nul Khral* or *Bri Khral* were required to pay it by manual service as labourers. The *Botos*<sup>12</sup>

4 *Frqn. Frontier A; Progs. 97-108 of 1887*, National Archives of India (N. A. I.).

5 *Khral* was known differently in various part of the area

6 Alexander Cunningham, *Ladakh*, Reprint 1971, New Delhi, p. 269.

7 *Frqn. Frontier A; Progs. 97-108 of 1887*, N. A. I.

8 *Ibid*, see also Alexander Cunningham, *op. cit*; p. 269.

9 Alexander Cunningham, *op. cit*, p. 270.

10 *Ibid.*, p. 269.

11 *State-Dep't; No-36 D-II of 1887*, Jammu Archives.

12 *Botos*, inhabitants of Ladakh are called *Boros* or *Bhuttas*.



reckoned the months on the basis of Lunar Calender System, therefore, every third Lunar year had thirteen months and during the general Lunar year and also during that year i.e. when it had thirteen months, the Gialpos were provided by the people in accordance with the following table:<sup>13</sup>

	Months	Days
The Cis Shyok villages of Nubra for		12
The Trans Shyok villages of Nubra for	1	12
The Igu District in Ladakh for	1	12
The Jemigam District in Ladakh for	1	13
The Bazgu for	1	13
The Leh and Khardong for	1	12
The Mattara for	0	22
The Shay for	0	22
The Digar for	0	22
The Nuno for	0	22

Under the Dogra rule till the year 1886, although the number of inhabited dwellings had diminished yet the number of paying houses was about the same and the above system that obtained before their arrival was allowed to continue till that year<sup>14</sup>.

In the year 1864, Maharaja Ranbir Singh in order to augment the revenue revised the old system, Under the revised system all the houses, according to which they had been taxed as large houses were considered to have full one *Zamin*<sup>15</sup> belonging to them and had to pay, in addition to the tax they were already paying, about one rupee and ten annas per annum in cash on account of the miscellaneous taxes<sup>16</sup>. The middle and small sized houses were assumed to have half and a quarter of a *Zamin* belonging to them respectively. The records do not reveal whether they continued to pay only the old rates or the proportionate fresh charges were levied on them also.

The above system continued for about 20 years. Under that system, however, many monastries which held extensive lands did not pay any tax. In order to make them to pay tax and to increase the rate of old revenue

13 *Frqn, Frontier A; Progs 97-108 of 1887, N. A. I.*

14 *Frqn; Frontier A. Progs 1-7 of 1886, N. A. I.*

15 *Zamin*, a roughly speaking it was an area of land which required from thirty to forty Khal of seeds to sow it.

A Khal was a sheep's load of 24 pounds and was sufficient for one thirds of an acre.

16 Miscellaneous taxes included taxes such as *Sarfana, Nazarana, Duzdi Zamin, Zar-i-Markab, Naziri-Wazir, Nazir-i-Kolab*, etc.



and also to bring the old system in line with that which obtained elsewhere in the State, a new system was introduced in Ladakh in the year 1884<sup>17</sup>.

Under this new system, land was surveyed and the people were informed that thereafter they would have to pay two rupees per annum per 'Kul'<sup>18</sup> instead of the rates sanctioned under the old system. By this arrangement the Government charge on the land increased by about one hundred and thirty percent. Ladakis as a result of this drastic increase were indignant and unhappy as the land was *Ekfasli*<sup>19</sup> and two rupees per *Kul* was exceedingly an excessive rate. Ladakhis protested their inability to pay, so in 1887, the Maharaja abandoned the new system and revived the old but with the rates enhanced by 25 percent<sup>20</sup>.

In the State of Jammu and Kashmir, the Regular Settlement operations began in 1887 and these were also extended to Ladakh. The settlement Commissioner carried on his settlement operations in Ladakh in a systematic way. He drew up a map of every village on a scale generally of 24 inches to a mile in order to show more accurately every field on the map. As measurement proceeded, all the facts were recorded on a prescribed form<sup>21</sup>, relating to each field concerning area, class of land, source of irrigation number and kind of trees, revenue payable etc.<sup>22</sup>

The Settlement Commissioner sanctioned the following classes of land for Ladakh :

1. *Mazhing*<sup>23</sup>, the sacred field of each *Assami*<sup>24</sup> with a good soil where the manure was first applied and sowing was attended with certain religious ceremonies.

17 *Frgu*, *Frontier A*; *Progs.* 1-7 of 1886, N. A. I

18 'Kul', a plough i.e. as much as could be cultivated by one pair of Yak.

19 *Ekfasli*, land yielding one crop yearly.

20 *Frgn*; *Frontier A*, *Progs.* 97-108 of 1887, N. A. I.

21 Prescribed Form has been appended at the end.

22 Talbot, W. S., *Note on the Settlement Policy and operations of the Jammu and Kashmir State*, 1906, Srinagar, p.1 see also Young husband, *Kashmir*, 1909, p.108.

23 *Mazhing*, 'Ma' means sacred and 'Zhing' means land thus sacred land.

24 In the State all the land was owned by the Durbār; the actual holders being termed as 'Assami'. The *Assami* usually cultivated his land himself, but could also have under him occupancy tenants (*Kashkar Mustakil*) or Tenants-at-will (*Ghair Must-akil*) commonly paying rent in kind. see Lawrance, W. R., *The valley of Kashmir*, 1895, London, p. 428, see also *Pol. Deptt.*, No. 65/F-79 of 1903, Jammu Archives



2. *Barzhing*<sup>25</sup>. so called because in produce it was considered midway between *Mazhing* and *Thazhing*. It was situated at a convenient distance from the village and was well manured and looked after.

3. *Thazhing*<sup>26</sup>, that situated at an inconvenient distance from the village site and insufficiently manured.

4. *Chhas* It was a vegetable plot near the house and co-responded to *Sagazar* of Kashmir but such plots were seen in a very few villagers and most probably the total area returned as *Chhas* would be insufficiently.

5. *Sasik*. It was a poor class of soil which left fallow in certain years to recoup its strength by means of spontaneous growth of the grass etc. which was allowed to decay and serve as manure.

6. *Ul-Thang*<sup>27</sup>. It was the land growing ul-grass a kind of lucern. These classes of land also had different names varying from *tehsil* to *tehsil*

As regards the state share, in Ladakh The land revenue demand was fixed at 30 percent of the total produce which varied from *tehsil* to *tehsil*

Class of soil	Rates for per acre											
	Skardoo			Kargil			Baltistan			Ladakh		
	Rs	A	P	Rs	A	P	Rs	A	P	Rs	A	P
<i>Mazhing</i>	3	—	8 — 0	3	—	4 — 0	4	—	3 — 9	4	—	12 — 0
<i>Barzhing</i>	3	—	6 — 0	3	—	2 — 0	3	—	11 — 0	4	—	12 — 0
<i>Thazhing</i>	1	—	8 — 0	1	—	8 — 0	3	—	0 — 0	3	—	4 — 0
<i>Chhas</i>	1	—	4 — 0	1	—	2 — 0	5	—	0 — 0	1	—	2 — 0
<i>Sasik</i>	2	—	0 — 0	1	—	12 — 0				1	—	0 — 0
<i>Ul-Thang</i>	0	8	— 0	0	—	8 — 0				0	—	6 — 0

25 *Barzhing*, Bar means middling and zhing means land and thus the middle land i. e. land between *Mazhing* and *Thazhing*

26 *Thazhing*, 'The' means distant, thus the land at a distance from habitations

27 *Ul-Thang*, 'Ul' a kind of grass, grown as fodder crop and 'Thang' means a plain thus the land (plain) growing grass.



The revenue was realised both in cash and in kind. The following table will show the rates fixed as land revenue in some of the tehsil of the Ladakh frontier<sup>28</sup>

Amongst above the other features of the settlement were as follows :<sup>30</sup>

1. The state demand was fixed for ten years
2. Steps were taken for the substitution of payment in cash but kind was also taken. In 1903, the collection of land revenue in kind was completely abolished and realisation revenue full in cash substituted.<sup>31</sup> The abolition was not beneficial for the cultivators because of ample supply of crops at the time of harvest when the people did not easily purchase and as a result of which cultivators had to sell their crops at cheap rates. Moreover, people living in town also suffered. Previously people living in towns were supplied grains at cheap rates by the Government but now they had to pay much money to get grains from the shopkeepers as the Government did not collect the land revenue in kind. Besides, a number of people who previously had been employed for the collection of the land revenue now became unemployed. So, in the next year i.e. 1904, the system of collecting land revenue partly in kind and partly in cash was revived<sup>32</sup>.
3. *Begar* in its more objectionable forms was abolished, through its complete abolition did not take place before the year 1923.
4. The use of force in the collection of the land revenue which was quite frequent before was done away with<sup>34</sup>.
5. Occupancy rights were conferred on *Zamindars* in the indisputed lands
6. The status of the privileged holders<sup>35</sup> of land was investigated and lands in excess of the sanctioned area were assessed at the ordinary rates.
7. Waste lands were entered as *Khalsa* but preferential rights for acquisition of such land by *Assami* were granted.

28 The table has been prepared by the author after consulting Assessment Report of the Tehsils mentioned in the table.

29 *Annual Administration Report of Jammu and Kashmir 1889-90* p. 61, see also *Pol. Deptt.*, No. 35 of 1905, Jammu Archive.

30 *Progs of the State Council*, 27 October, 1903. p. 2, see also *Pol. Deptt.*, No. 35 of 1905, Jammu Archives.

31 *Prog. of the State Council*, 27th October, 1903, p. 2.

32 *Begar* in more objectionable form means to the people for more than the mere impressment of labour, for under its comprehensive name every kind of demand for labour or property taken but not paid for by the officials was included, see Lawrance, W. R., *op. cit.*, p. 411.

33 *H.H.P.R.*, No. 32 of 1923, Jammu Archives.

34 *Annual Administration Report of Jammu and Kashmir*, 1892-93, p. 117.

35 Privileged holders were men who had acquired landed property under deeds granted by the State. see Lawrance, W. R., *op. cit.* p. 426.



8. Peramnent but non-alienable hereditary rights were granted to those who accepted the assessment and all land was carefully evaluated on the basis of the produce, previous collection and possibility of irrigation.

As a result of the settlement operations, firstly the corruption which was rampant in the land revenue was stamped out. Secondly, the cultivators begains to grow rice and their holdings were assessed systematically and consequently they knew the extent of the land revenue they had to pay, Thirdly, the new settlement abolished the more obnoxious forms of forced labour and to some extent now the cultivators were free to work in their fields and those who had paid a tax for instead of forced labour, were relieved of this burden. This altogether improved the economic condition of the cultivators.<sup>36</sup> Fourthly, fixation of the state demand for a long period of time, helped the cultivators to improve the soil and consequently increased production.

With regard to the proprietary rights in Ladakh, the whole land was apparently regarded as the absolute property of Maharaja<sup>37</sup>. The cultivator only had the rights of occupancy against the State as long as they paid its dues and were particularly subproprietors but they had no rights of alienation mortgage<sup>38</sup>. In the year 1912, all tenants-at-will of land owned by the State were granted full occupancy rights.

In 1933, the state Government conferred proprietary rights on occupancy tenants of the land and those with *Assami* rights and remitted the payment of *Nazarana* (a tribute) usually levid on such occasions, the *Malikana* payable by occupancy tenants over and above the amount assessed for revenue was also remitted.<sup>39</sup>

In order to protect the newly created land holders in the Ladakh frontier from the consequences of their own improvidence, a Land Alienation Act was passed to control the transfer of land by sale or mortgage<sup>40</sup>. The Act disallowed the transfer of the newly acquired rights to any but a number of agricultural classes and prohibited the alienation of more than

36 Triennial Administration Report of Jammu and Kashmir, 1920-23. p. 38

37 *Pol Deptt. No 64 of 1905* Jammu Archives

38 *Pol Deptt., No. 35/H-64 of 1905*, Jammu Archives.

39 *Census of India, 1941*, vol, Part I, p. 16.

40 *Land Alienation Act, 1933*, State Govt. Publication. p.p. 1—2.



25 per cent of any holding for a period of ten years<sup>41</sup>. As a result of this liberality, a large number of transfers had taken place. The most common cause was debt, either inherited or accumulated, usually as a consequence of improvident habits.<sup>42</sup> With the object of helping agriculturists to avoid debt and also to encourage the development and improvement of cultivable areas, the state Government passed the Aid to Agriculturists and Land Improvement Act in 1936<sup>43</sup>. Under this Act, the loans began to be made available on easy terms to any proprietor or occupancy tenants of agricultural lands for the purpose directly connected with the agriculture.

Conclusively we can say that because of numerous improvements in the land revenue incorporated from time to time helped improving the economic condition of cultivators of the Ladakh frontier. In the beginning of the Dogra rule, the improvements were slow but its speed was accelerated from 1887 to 1920. During the last three decades the progress had been rapid.

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41 *Census of India, 1914*, vol. Part I, p. 16.

42 *Ibid.*

43 *Land Improvement Act, 1936*, State Govt. Publication, p. 1.



## Maharaja Pratap Singh and Administration of Justice in the Jammu and Kashmir State

Dr. Hari Om Mahajan

The legal system and administration of Justice reflect to a large extent, the development of the people—their institutional life, traditions and norms of behaviour. The Dogra rulers had inherited from the Afghans and the Sikhs a crude and primitive administration and, for over a generation, had little time to modernise it. Consequently, the apparatus of justice remained unorganised, arbitrary and medieval in the first thirty years of their rule. However, in 1877 certain reforms, like the establishment of "*Adalat-ul-alia*" and the enactment of a penal code containing only one hundred sections, were introduced. But these were not enough for ensuring honest and speedy justice.

As the source of all laws and justice the maharaja was obviously the highest court in the State and was easily approachable by his subjects. Other law courts, which were few in number, were not guided by any code of laws and procedures. Justice depended largely on the whims of the officers. There was no substantive Code of civil laws. Criminal laws were replete with errors, anomalies, and sometimes empowered criminal courts to invent new punishments. Judges and magistrates seldom recorded the proceedings in their own hand and left the work entirely in the hands of irresponsible clerks. As a result the history of justice was replete with incomplete trials, ridiculously absurd Judgements and down-right corruption and oppression.<sup>1</sup> Depositions of witnesses recorded at regular trials were often tempered with, or replaced by false ones to such an extent and the courts lost public confidence that no party to a suit would credit them with original documents. Even the petty cases found their way to the highest tribunal often swelling legal charges to the extent of

<sup>1</sup> Report on the administration of Kashmir since 1891, by Col. Nisbat, For. Dept. progs Feb 1891, nos 295-326, secret F.



double or triple of the amount claimed.<sup>2</sup> Courts were at the mercy of the executive. supervision over subordinate courts was extremely lax. Delay in the disposal of cases caused inconvenience to all concerned. Sometimes civil cases would remain pending for years,<sup>3</sup> while decrees passed at regular trials were modified during execution to suit the convenience of influential people.<sup>4</sup> An observer wrote, "justice in Kashmir is a mockery. No appeal can be made from it and it judges by no laws."<sup>5</sup> "Justice was such that those who could pay could at any time get out of jail, while the poor lived and died there almost without hope."<sup>6</sup> There was a general feeling among the subjects that in the presence of the Maharaja they could get justice.<sup>7</sup> It clearly indicates that the people had little faith in the law courts.

It was only in the time of Maharaja Partap Singh, who ascended to the throne in 1885, that attention was paid to this branch of administration. He was fully aware of the abuses that had crept into almost every department of the administration. The Maharaja, in spite of many difficulties in his way—Chief of which was the attitude of the Resident—resolved to remove these abuses. The speech he delivered on his accession to throne is ample proof of his noble intentions. He said, "Armed with purity of intention and firmness of purpose, I may reasonably entertain the hope of being able to clear the administration agency of all corruption and incompetency and to impart to it maximum honesty and efficiency. I now warn my officials of all ranks that I have fully made up my mind to put down corruption and intrigues, wherever they may be found, and I hope that they will do all in their power to help me in making my administration a blessing to my people."<sup>8</sup> Acting accordingly, Pratap Singh soon introduced many reforms in the field of Judiciary.<sup>9</sup>

During his long reign of forty years he undertook several progressive measures<sup>10</sup> to make the administration of justice cheap, expeditious and

- 2 Confidential note by Pandit Bhag Ram Judicial Member, For. Dept. Feb. 1890, Nos. 67-69, Secret F.
- 3 Confidential note by Pandit Bhag Ram, Judicial Member, Feb. Dept, Prop, Feb. 1890, Nos. 67-69, secret F.
- 4 A.R. 1889-90. pp. 60-70.
- 5 For. Dept. Progs. March 31, 1848, nos. 65.
- 6 Younghusband, Francis. *Kashmir*. Adam & Charles Black, London, 1909, p. 158.
- 7 *Memorandum on Kashmir and some adjacent territories*, by Charles Girdlestone B.C.S. Officer on Special Duty in Kashmir.
- 8 William, Digby, *Condemned unheard*, p. 143.
- 9 Bose, J.C., *Kashmir and its Princes*, Calcutta 1889, p. 13.
- 10 Bamzai P.N.K., *A History of Kashmir*, Metropalian Books Co. (Pvt.) Ltd. new Delhi, 11nd Ed, 1973, p. 197.



impartial.<sup>11</sup> From 1889 the internal administration of State became the direct concern of the government of India & the Maharaja had to seek the advice and approval of the British Resident before taking any action. But, while the Maharaja was held responsible for running the administration efficiently, the Resident was virtually irresponsible.<sup>12</sup> It was not possible for the Maharaja to introduce any radical change in the existing system of his own accord.<sup>13</sup>

Still, he did his best to remove the old and serious abuses<sup>14</sup> and place the administration of justice on a sound footing.<sup>15</sup> In 1889 Maharaja Partap Singh, in consultation with the Resident, selected Rai Bahadur Pandit Bhag Ram as judicial member of the State Council for a period of ten years.<sup>16</sup> He had done excellent work as judicial Extra Assistant Commissioner at Ajmer and was a man of known ability and experience,<sup>17</sup>

The judicial machinery of the State was thoroughly re-organised on British Indian lines under his guidance. In 1899 when the term of his office expired, the Maharaja made a representation to the Govt. of India for the extension of his service for a further period of two years, if not more. "by which time the other member will have acquired the necessary experience,"<sup>18</sup> The Maharaja knew that services of Pandit Bhag Ram as judicial member were of great advantage to the people of the State who were now enjoying the benefits<sup>19</sup> of an organised judiciary and that his

11 *A Note on the Jammn and Kashmir State*, Ranbir Govt. Press 1928, p, 12.

12 Bamzai P.N.K., op. cit. p. 623.

13 Regulation of 1889 pronding for the constitution, powers & conduct of the State council, J K.O.E.R.F. no, 23 of 1902.

14 Nargis, Narsingh Das, *Tarikh Dogra Desh*. Chand Publishing Hour, Jammu, 1967. p. 667.

15 From Col, Nisbat to the Secretary to the Govt. of India. no. 15-L dated 29-1-1890, For dept. Prog. teb. 1891. Nos. 295-326 secret F.

16 Form H.S. Barnes to the Resident in Kashmir no. 1254 E B dated 21-8-1899, For. dept. Prog. March, 1900, no. 127-175 secret F.

17 R. Logan, Report on the financial condition of the Kashmir State 1891-p.7,

18 From H.S. Bernes to the Resident in Kashmir no. 1254 EB dated 21-8-1899, For. Dept. prog, March 1900 nos 127-175 secret F.

19 The Editor of the *Rafig-I-Hindustan* Lahore dated 26-1-1897, Gives the time table of Rai Bhag Ram with a view to showing that he spends his whole time in carrying on intrigues against the Maharaja. the hearing of judicial cases is postponed from time to time & the poor litigants leave for their villages before their cases are decided. Indeed the frequent changes of dates lead many people to give up their cans. the State subject are being ruined owing to the apathy displayed of the R" *Report on native newspaper Punjab* 1897.p. 88.



departure would mean a great setback for the judicial department.<sup>20</sup> He tried his best to retain his service, but in October 1899, the Govt of India expressed its inability to accede to the Maharaja's request.<sup>21</sup> In his place Sri Narian Dass, M.A. was selected for the judicial membership of the State council.

No doubt, the Maharaja used to exercise his powers in consultation with the judicial member, but he himself issued orders." enjoining upon higher officials to exercise strict supervision over their subordinates and exhorting all the servants of the State to be honest in the discharge of their duties on pain of criminal prosecution."<sup>22</sup> To further improve the working of the courts of justice, the Maharaja issued warnings to influential people and officials, for bidding them not to try to influence the decisions of the courts.<sup>23</sup> He issued strict orders that who so ever was found guilty by a court of justice would be punished without any consideration of his caste.<sup>24</sup>

From time to time, the Maharaja held discussions with the judicial member about the judicial affairs of the State and also about the reforms necessary to make the administration of justice more impartial and efficient. The judicial member was required to inform the Maharaja about the necessity of new laws to meet the needs of the people. Proposals for reforms in the shape of memoranda were submitted to the Maharaja by the judicial member through the President of the Council and the Maharaja gave final orders, sometimes with certain modifications. In this way Maharaja tried to tone up the administration. The Criminal Procedure code, popularly known as Ranbir Dand Bidhi, introduced in 1891 was amended, from time to time. The laws of evidence and limitation were enacted in 1898, and several.

20 "I (Maharaja Pratap Singh) am afraid that Rai Bahadur Pandit Bhag Ram's departure from the council at this time will prove detrimental to the administration of justice considering his long & varied experience that he has acquired during his last ten years service in the State, his advice in all matters will be useful if his services in the state are extended for a further period", For Dept. Progs. March 1900, no. 127-175, secret F.

21 From Asstt. Resident to vice-President State Council no. 6265 dated 11-10-1899, J.K.O.E.R.F. no. 77 of 1899.

22 Bose, J.C., *Cashmir and its peinces* p.11.

23 Ibid. p.14.

24 Ibid. pp. 19-20.



other useful judicial circulars, *ailans* and orders were issued. To make justice more accessible to the people the number of courts was increased in 1897 and 1904. The powers, functions and jurisdictions of these courts were clearly defined. A munsiff and a sub-judge was appointed in every tehsil and district, respectively.<sup>25</sup> Certain Chiefs or jagirdars were invested with the powers of honorary magistrates with defined jurisdictions.<sup>26</sup> It must be noted that judicial powers were seldom conferred on the jagirdars on a permanent bases. wherever any jagirdar did not prove himself fit for the exercise of the powers of a magistrate or indulged in corruption his judicial powers were withdrawn.<sup>27</sup> The judge high court kept himself in constant touch with the work of those jagirdars.

Personally, the Maharaja was god-fearing and had his own ways of administering justice.<sup>28</sup> But the punishments meted out to criminals were no longer severe.<sup>29</sup>

The Maharaja personally had an important role in the administration of justice as he was the source of all law. There were no courts competent enough to try him for any offence. As the highest court of justice in the State he heard appeals both in civil and criminal cases against the judgement of the high court. The Maharaja had every right to Transfer cases from one court to another and to send for files.<sup>30</sup> Whenever there

25 Khan, Maulvi Hasmat ullali, *Tarikh-i-Riyasat-Hai-Maftua Jammu Kashmir* p.80.

26 Box J.C., *the Maharaja of Kashmir* pp. 123-124.

27 Pandit, Mohammad, *Mukhtsar Tarikh Kashmir*, p. 185.

28 "A poor man once submitted a petition to him. saying that he had pawned a gold ornament to a shroff for few supees"" I am returning him the money, stated he & asking back my ornament which I have made for my daughter, who is going to be married soon, but the shroff is telling me that he had never lent money to me nor any ornament was ever pawned by me to him'. Maharaja Pratap Singh enquired From the poor man if he had got any proof, documentary or otherwise, to support his allegation; He told him that he had got none. The Maharaja then called him in private and, after satisfying himself of the truth of his Complaint, instructed him to go to the money-lender at his shop at a certain hour that very day. shortly after the poor man had reached the money-lender's shop, he too arrived there on horse back. He called the petitioner to himself and 'bending low from the horse-back, whispered something in his ear feigning intimacy with him and then moved on. When the money-lender saw that the man was so close to the Maharaja he got frightened and gave him back his ornament, recovering the few rupees he had bent to him.", G. L. Kaul, *Kashmir then and now*, p. 96.

29 Kaul, G. L., op, cit. p. 97.

30 *Report on native newspapers Pb. 1896.* p. 324.



was an appeal to his court, he referred the case to the judicial member. The Maharaja would dispose of the case after obtaining the opinion of the judicial member.<sup>31</sup> It was up to the Maharaja to agree with the judicial member's opinion or not. It was only on rare occasions that an appeal against the orders of the judicial member was made to the Maharaja. Sentences of death or life imprisonment passed by the Chief judges<sup>32</sup> or the high court judge were subject to confirmation by the Maharaja.<sup>33</sup>

In criminal cases the Maharaja-in-council exercised prerogative, enumerated in sections 401 and 402 of Criminal Procedure Code<sup>34</sup> The Maharaja was very careful in exercising his prerogative and set-aside the orders of the Resident and the decisions taken by the council when he felt that his prerogative had been encroached upon.<sup>35</sup> The Maharaja was of the view

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31 Proposed administrative changes in Kaashmir. For Deptt. Progs. December 1902. Nov. 112 Secret F.

32 *The Imperial Gazetteer of India*, vol. xv, p. 136.

33 Ibid.

34 From Lt. Col. Talbot Resident to secretary to the govt. of India No. 4596 dated 1899, For. Deptt. Progs. March 1900. No. 127-175 Secret F.

35 In criminal case, Bakshi Bindraban and Punjab Singh Vs State, the State Council, in consultation with the Resident, directed Bakshi Bindraban not to live in the state. Bakshi Bindraban submitted a petition of pardon to the Maharaja, to called for the records of the case. After going through all the papers, he held that "I fail to see any justification of the order, directing Bakshi Bindraban not to live in Kashmir or in Jammu, because it amounts to a sacrifice of all his right, and privileges to the full enjoyment of which all my subjects are equally entitled. This sort of an order is not only an attack upon Bindraban's right, but is tantamount to an attack on my prerogative also. I cannot allow a subject of mine to be expatriated in the way, or see his liberty of action and movement thus curtailed and encroached upon and I declined to permit the execution of so much of the council's order, as it interferes with my prerogative as a ruler of the State." He noted "don't carry out" this order of the council and the Resident and "inform the judicial and Police Members accordingly". (a) copy of a letter No. 45-24 dated 7-7-1897. From Resident to the Vice-President State Council J. K. O. E. R. F. No. 86 of 1897. (b) Council proceedings, dated 8-4-1897, J.K.O.E.R.F. No. 86 of 1897. (c) Letter No 3222 dated 14-8-1897. from vice president state council to the Resident, J.K.O.E.R.F. No. 86 of 1897.



that the prerogative of mercy and pardon was only requisitioned in the last resort when all other remedies had been found to be of no avail.<sup>36</sup>

Petitions for pardon in death sentences were disposed off by the Maharaja after consulting the judicial member. The Maharaja could hear any appeal in accordance with any law enacted in the matter on the advice of the council.<sup>37</sup>

Prior to 1899, all cases in which the servants of Maharaja's Private Deptt. were involved were dealt with by the Maharaja himself. Such cases were not tried in the regular courts of justice. The Govt. of India took a strong notice of it, although the matter had no direct or indirect link with the British Govt. and issued strict orders in 1899 that whenever anyone of them was accused under the criminal procedure Code, the case was to be tried in regular courts and not by the Maharaja.<sup>38</sup>

In 1900 it was suggested by the high court Judge (judicial member), Mr. Narain Dass, M.A. that the Maharaja had no power to hear an appeal against the order of acquittal passed by the high court. The suggestion was

36 (a) In a criminal case of Baines brothers Vs Pandit Sanju Dhar, a reference was made to the Maharaja for his opinion. The case was that "the civil suit between Baines brothers and Sanju Dhar has terminated in an amicable settlement of accounts, one of the conditions of the compromising being that Mr. Mitchell shall use his best endeavours to get the criminal case against Sanju Dhar withdrawn or requested, condition of this kind is not legally enforceable and Sanju Dhar has been already convicted by the Sub-judge, and an appeal against conviction is already pending before the chief judge, it does not rest with the Baines brothers or Mr. Mitchell to terminate the legal proceeding at this stage. In view of the circumstances explained in the Residency letter it seems expedient that criminal proceedings should not continue any further does not, however, appear to be any provision in law enabling this Highness to give decision on the question of conviction when an appeal is pending in the chief judge's court". The Chief Minister consulted the judge high court who also obtained the opinion of the provincial chief judges. "It appears that at the present stage of criminal proceedings the only action which His Highness can take is under section 401 of the criminal procedure code. This section enables this Highness to grant remission of sentences, but does not effect the question of conviction. Sanju Dhar has orally represented that it would not be fair to him, if only sentence was remitted and conviction allowed to stand. As Sanju's appeal is pending in the judicial court and it does not seem to be correct the prejudice the decision of the court on the question, it would seem that the only alternatives in accordance with the criminal procedure code are (1) either to await the result of the appeal in the chief judge's court and in case conviction is upheld, to grant remission of sentence of the judgement being pronounced, (2) Order remission of sentence at this stage, leaving the question of conviction open for the decision of the judicial court. The Maharaja held the same opinion. Order No. 740 dated 19-7-1910, J.K.E.O.R.F. No. 284 of 1907.

(b) From Chief Minister to this Highness No. 522 dated 7-1-1910, J.K.O.E.R.F. No. 284 of 1907.

37 Proposed administrative changes. For. Deptt, progs. Dec. 1902. No. 112 secret F.

38 From Secretary to the govt, of India to Talbot the Resident dated 29-1-1899, For Deptt. progs. March 1899, No. 62-63 External B (confidential).



referred to the Govt. of India for decision, who intimated that the rule to be followed in the matter was to accept appeals only in important cases, like that on murder, where glaring injustice had been done. Thus the right of appeal to the Maharaja against the order of the acquittal passed by the high court was conceded by the Govt. of India through the Residency<sup>39</sup>. It was held that the highest court in the State was that of the Maharaja and not the so called high court.<sup>40</sup> The Govt. of India, thus suggested the right measure in the absence of a high court presided over by more than one Judges.

The Maharaja did not favour extreme measures against any culprit merely on the suspicion that he or she was a bad character. It was his earnest effort to examine the case thoroughly and to study the circumstances in which the crime was committed. Thus, in a petition, dated 24 July 1909, from Kanahya Lal guardian and menager against Mst. Gadesh, a widow, who it was alleged was openly conducting herself in a way that hardly befits even a prostitute. The Residency suggested that the widow be turned out of Kashmir. But the Judge high court, before taking action in the light of the Residet's remarks, requested the widow to shift her honse which was in a conspicuous place visited by Europeans. The widow did not avail herself of the offer. So, he referred the matter to the Maharaja for disposal recommending that the woman be turned out of Kashmir. The Maharaja, on the other hand, wrote that the circumstances were such that "the action proposed, if accepted, would become a precedent for cases of this kind, while there is no law or rule according to which such an extreme measure can be adopted". He did not consider it right to turn her out on the mere allegation that she was a bad character.<sup>41</sup>

In another case Abdul Karim Vs. Mr. Motha, Abdul Karim the Deputy Inspector of Police, European quarters, was charged by the Inspector of Police Mr. Motha under section 311 & 289 Ranbir Dand Bidhi with the offence of taking bribe. The offences, it was alleged were committed at Gulmarg the case was tried by the chief judge of Kashmir province, who finding the accussd guilty sentenced him to pay a fine of Rs. 500/-. The accused appealed to the high court, who quashed the conviction of the chief judge and acquitted

<sup>39</sup> From judge high court to chief minister No, 95 dated 21-4-1911, J. K. O. E, R. F. No. 188/N-50 of 1910.

<sup>40</sup> Ibid.

<sup>41</sup> Order No. 2619 dated 19-2-1911, J,K O.E.R.F. No. 78 of 1909.



the accused, Thereupon, Mr. Motha made another application and prayed that orders of acquittal passed by the high court be set-aside and a retrial should be instituted. The matter was referred to the Maharaja, who held that the accused had been sufficiently punished and a retrial was unnecessary because Abdul Karim had been under suspension for a considerable time and that the "ends of justice had apparently been served". So, Abdul Karim was reinstated.<sup>42</sup>

Cases relating to landed property were called land cases, The Maharaja heard appeals in such cases only when the value of the subject in dispute was above Rs. 500/-. In all land suits, exceeding Rs. 500/- in value, and in all other suits, exceeding Rs. 1000/- in value, the first appeal was heard by the high court and the second appeal by the Maharaja himself.<sup>43</sup> In non-land cases, the Maharaja could dispose off appeals against any judgement of lower court and had power to veto any of their judgement.<sup>44</sup> The application for injunctions to postpone execution of decree could not be entertained by an appellate court until and unless an appeal had been lodged in the matter and appellate court saw sufficient ground to grant the same. Such applications were also entertained by the Maharaja.<sup>45</sup> Any one dissatisfied with the judgement of any judicial officer or minister was given the right to appeal to the Maharaja for revision of the case.<sup>46</sup> The final orders passed by the Maharaja in civil, criminal revenue cases were announced by the chief minister to the party concerned.<sup>47</sup>

Pratap Singh<sup>48</sup> always kept in mind the difficulties of his subjects. In all abnormal times when the country or any part thereof was visited by flood or famine or other calamity, steps were taken not only to suspend or remit land revenue and give taccavi advances, but the execution of decrees passed against the cultivators was also suspended for a certain period.<sup>49</sup> In

42 Order by Maharaja, J.K.O.E.R.F. No. 30 of 1907.

43 Order No. 2311 dated 14-1-1920, J.K.E.O.F. No. 139—316. of 1907.

44 Order No. 1922 dated 29-9-1908, J.K.E.O.R.F. No. 139—N-316 of 1907.

45 Ibid.

46 J.K.O.E.F. No. 231/F-41 of 1907.

47 Order No. 1101 dated 11-5-1909, J.K.O.E.R.F. No. 4512-19 of 1909.

48 Protector of Kine and Brahmins, supporter of the helpless, protector of subjects, a jewel of India adorned with the virtue of justice, mercy and porabearanne". From General Secretary Spetember Conference to the Maharaja dated 8-10-1915, J.K.O.E.R.F. No. 91/F-57 of 1913.

49 Report of the Srinagar Riot Enquiry Committee. 1931 p. 25,



1910 the judge high court submitted a memorandum to the Maharaja that the cultivators were suffering on account of the floods in the valley and recommended that the execution of decrees by the money-lenders against the cultivators of villages subjected to flood be held in abeyance for one year. On 9 Feb., 1919, the Maharaja issued an order accepting these recommendations that whenever a calamity, like flood devastates any part of the state, such measures won to be adopted.<sup>50</sup> He always kept himself in touch with the day to day developments and irregularities committed by the judicial officers. Whenever it came to his notice that certain cases had not been taken up for trial in proper time he would immediately issue instructions to facilitate their prompt disposal.<sup>51</sup>

In Feb., 1913, the British Indian Code of Criminal Procedure (Act V of 1891), with certain modifications, was introduced in this state. The high court was defined in the said code 'as the court which was highest court of criminal appeal or revision, subject to general power of revision by and reference to and further appeal to the Maharaja'.<sup>52</sup> The most important function of high courts in British India was to confirm sentences of extreme penalty passed by the sessions courts. The judicial member of the high court did not have that power since it was exercised by the state council as a body and by the Maharaja personally after its abolition. In this respect the functions of the state high court were somewhat anomalous and inferior to those exercised by the provincial session judges in as much as they could sentence the accused to death by hanging, subject of course to its confirmation by the Maharaja. They could acquit any person charged with an offence punishable with death or transportation for life. But the high court of the state did not enjoy such powers. It was the Maharaja himself who possessed the power to acquit any person.<sup>53</sup> No order of acquittal passed by the criminal court in the state was appealable except with the sanction of the Maharaja.<sup>54</sup>

50 Order No. 2532 dated 9-2-1910, J.K.O.E.R.F. No. 135/H-16.

51 Order No. 1734 dated 10-1-1913, J.K.O.E.R.F. No. 60/N-105 of 1912.

52 Memorandum, Judicial Deptt., J.K.O.E.R.F. No. 188/N-50 of 1910.

53 From judge high court to chief minister No. 95 dated 21-4-1911, J.K.O.E.R.F. No. 188/N-50 of 1910.

54 Ibid,



Of course. Maharaja Pratap Singh was not free from certain drawbacks. Sometime he passed orders on appeal without the knowledge of the minister concerned or the chief minister being first given an opportunity to express an opinion on the grounds of appeals including the judicial orders of the judge high court and he acted merely on the advice of his English or vernacular secretary. Sometimes he admitted appeals against the orders of the revenue member, although apparently under the state laws no appeal was admissible by the Maharaja. The actual procedure was that the minister concerned was required to submit a report to the Maharaja on the appeal petition or discuss the case with the Maharaja before he gave his decision. In 1914 the Maharaja was by the govt. of India to be very careful in passing such orders or admitting appeals.<sup>55</sup>

In 1917, the question of establishing a proper high court was taken up by the Maharaja. He realized that the method of inviting an individual with the powers of judge high court. apart from the executive duties which he was required to perform as head of the judicial department, was anomalous and prejudicial to the prompt disposal of cases.<sup>56</sup> ultimately, in 1921. He succeeded in passing the high court regulation.

The high court Regulation gave the people the right to appeal direct to the Maharaja against any judgement made by the high court or by any division bench from which an appeal did not lie to the full bench of the high court. In either case the value of the amount in dispute should not be less than Rs. 10,000/-. Under this Regulation, the Maharaja could invite appeals against the judgements of any court if the value of the sent was Rs. 1,000/- or above, The Regulation also empowered the Maharaja to hear appeal against any judgement with the high court's approval.<sup>57</sup> One aggrieved by any preliminary or interlocutory judgement of the high court not being of criminal jurisdiction, was given the right of appeal to the Maharaja.<sup>58</sup> Whenever such appeals were entertained by him, the high court was to transmit to him the arguments of concerned judges and all relevant record.<sup>59</sup>

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55 From Resident to chief minister D.C, No. 43 dated 22-1-1914, J.K.O.E.R.F, No, 352/2-b of 1944.

56 From Bishan Das, Home member, to Maqbol Hussain officiatii confidential dated 2-6-1917, J.K.O.E.R. F. No. 283 of 1917.

57 Powers of the Maharaja, J.K.O.E.R, F, No, 12-R 1924 of 1924,

58 Ibid.

59 Ibid.



Maharaja Pratap Singh had, thus, taken some measures to improve the judiciary of the state. One of the happy results of his progressive policy was that the subjects of the state acquired for efficient for the dispensation of justice within the state. They could appeal to the Maharaja against any judgement of the high court even when no appeal was provided for, Corruption rampant in the courts was considerably checked by punishing dishonest officials, Whosoever found guilty by a court of law was punished without any consideration of his caste. Judiciary became independent of executive control to a large extent. The grand legal traditions like the dispensation of justice according to law and procedure and respect for law were duly enshrined in the judicial administration. These developments would not have taken place, had not Maharaja Pratap Singh taken personal interest in the administration of justice.



## Some Social Aspects of the Wall Paintings of Jammu City

By : Dr Y. B. Siugh,

Anita Kumari

Art creations generally are the photo-copies of the mental images of the artists. But the concept is not applicable to the art creations, created either by the order of some authority or for the purpose of sale. In this context when we view the paintings of the walls of Jammu palaces and temples, we find that they belong to the second category. Naturally the repetition of theme and stereo-type decorative patterns find occurrence frequently. These repetitions, however, can be explained only when an analysis of the socio-economic background of the artists is done. In this context all accounts testify that by the closing years of seventeenth century A.D. and the beginning of succeeding century the Mughal, Rajput and Pahari Schools of paintings were fully established and the art of painting was almost an independent craft having its own members who trace their descent from the artists of the yore. Even if there is some exaggeration in this type of statements at least we have references to artists whose fathers and grandfathers were expert painters. And this was perhaps the reason for which there are many paintings of the similar themes, technique, etc.

Secondly when a person is forced to earn his or her bread through some trade commercial aspect dominates the artistic value and hampers the originality of ideas. This was another factor which induced the element of repetition in wall paintings. For the artists in an attempt to earn more not only worked hard themselves but engaged the junior members of the family in the trade to increase the production. Thus the artists having creative mind created a team expert in working on the set pattern. Thus the profession became hereditary. Hence, the stereo-type production.



Thirdly, the patrons' liking and disliking are also to be taken into account in this regard. The period in which the said art schools flourished was the period of a social transition. The Rajput rulers particularly those who surrendered to the imperial authority of the Mughals ultimately, of course, unconsciously, accepted the Mughal court-patterns as ideas. The reflection of this ideal is found in their liking of art object also. The tendency can be marked in the art creations of Jammu also. The Indo-Islamic style of architecture particularly the Bengal-type of canopy which was constructed to house the throne of Mughal Emperor inside the Diwan-i-Khas at Delhi and Agra was accepted as a model even for religious shrines. The same is reflected in paintings and therefore most of the paintings carry the architectural designs similar to those of Mughal palaces. The Persian influence apparent in fine outlines which can be noticed particularly in the geometrical patterns and floral ornamentation is also an impact of Mughal school. In spite of the fact that Indian art tradition too, lays emphasis on the beauty of the line the trend found in Pahari School in general is more Persian than Indian. Further the period is marked with the development of certain new trends in the field of religion as well as in literature. The Bhakti movement<sup>1</sup> culminated in the worship of Lord Rama on the one hand and Krishna along with his beloved Radha on the other. As is well known the cult of Radha and Krishna became more popular among the artists because of the amorous nature of the legends connected with them. The poets and painters find an excuse to depict dalliance of lovers by making Radha and Krishna as hero and heroine to keep a religious cover. The rulers or the patrons did like such paintings of amorous nature and, therefore, generally paintings portray *Sringar*—having themes of separation as well as union (*Samyoga* and *Viyoga*). Thus the Jammu wall paintings also display the similar trend and in this regard they were quite in tune with the time to which they belong.

Viewed in afore-said context the paintings reveal their purpose themselves. The rulers had before them two factors; in the first place, they had a liking for decorative motives and painting was considered since early days as the most befitting art employed for interior decoration. In this regard, however, the charm of female beauty was given preference; secondly to satisfy their own religious sentiments they provided almost all the paraphernalia attached to royal courts and haramto temples also. Therefore, either there are paintings displaying *Sringara* or depicting religious stories in *Charana*.



*Chitra* tradition. In this context the idea becomes clear when we study female figures in the form of Radha, gopis, *Nayikas*, and *Raginis*. It is very difficult to make out a sharp distinction between the portraits of these on technical grounds particularly in case of *Nayikas* and *Raginis*. Most of the female figures barring few, display female charm, that too, the physical charm and ignore the theme of the story. For example, in certain paintings Radha and Krishna do not look more than a mortal couple, though, the depiction was supposed to carry *Bhakti-rasa*. Similarly most of the figures display fine delineation but there is a lack of motion. Seldom we find the display of sentiments. With the same approach the artists succeeded in providing brilliant colour composition and other technical matters to almost every painting but without much originality.

Nevertheless, the Jammu painters had been successful in one respect. In spite of the fact and contention of the scholars that Jammu school carries impact of Kangra and Basoli they succeeded in displaying social norms and practices common in Dogra land. As pointed out elsewhere the dresses and ornaments and other social features such as scene of a marriage party showing dowry objects carried by the people, weapons used in war, and landscape are of Jammu alone. And this provides temptation to conjecture the following. The artists who did these paintings had a long association with Jammu i.e., perhaps they migrated, even if we believe in theory of migration, much earlier than the period to which belong the paintings. Another possibility is which is more convincing to us, that because of the unsettled political conditions in adjoining areas, the artist sought protection at Dogra court and settled down here. This explains the general nature of early paintings more similar to those of adjoining area and the specific nature of later paintings having reflections of life and living of Jammu paintings. Thus, whereas, the early paintings do not reveal any separate identity the latter ones had their own identity and truly speaking it is the latter paintings which provide a basis to name a school as a Jammu school of paintings.

Traditionally Jammu was always connected not only with former Punjab hill states but also with other parts of Northern India. The coming of various Kshatriyas of Agnikula, Solar and Lunar descent brought the cultural traits of other places to this region which ultimately evolved a culture which was an admixture of various culture-trends. For example, the temple architecture of early medieval period clearly displays the influence of East



Indian school of architecture. And when viewed in this light it is clear that certain early paintings itself and the Basohli school which is said to have influenced Jammu school, in our opinion, carry traces of paintings of Eastern India 'belonging to Pal period.'<sup>2</sup>

Thus the analysis of school of paintings which established its separate identity gradually suggests that in early phases artists either came to Jammu from other places or local talent was encouraged by the patrons to go and learn the science at various flourishing centres of art. The contention is attested from the fact that the early paintings, particularly portraits of rulers, resemble those of Mughal school and the later one show the traces of Kangra, Chamba, Nurpur etc.

The result of this trend was, however, very pleasant and by the time of Maharaja Gulab Singh the Jammu region developed its own fully developed school which clearly reflects the culture trait of the Dogra land.

1 Singh, Y. B., Socio-Political Roots of temple Rituals to Brahmanical Shrines at Jammu.

2 Singh, Y. B. *Kashmir and Nepal*, paper published in the proceedings of Panjab History Conference.



## Praja Parishad Agitation (1952-53), Its Reactions and Crisis of August 1953

Dr. Vidya Bhushan\*

The all Jammu and Kashmir Praja Parishad, being essentially a reaction to the aggressive trends in the local nationalism of Kashmir, a protest of a region which felt politically ignored and condemned<sup>1</sup>, result of regional nationalism, a regional and a largely Hindu dominated party was found<sup>2</sup> in 1947. Hindu Dogras had a sense of insecurity as a minority community in the State. Representing their apprehensions, Praja Parishad sought security in the retention of the Institution of the Maharaja as a Constitutional head of the State. For the same reason they favoured closer ties between the State and Indian Union and abrogation of Article 370 which conferred a Special Status on the State. It rejected, outrightly a separate Consambley,<sup>3</sup> separate emblem and separate flag for the state and the institution of Sadar-i-Rayasat and demanded the application of Indian Constitution in its entirety.<sup>4</sup> Like Jana Sangh, its policy too was influenced by the ideology of AKHAND BHART and regarded the accession of

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1 Puri, Balraj : *Jammu A clue to Kashmir Tangle*. A-4, Model Town Delhi-9, 1966 pp 33-34.

2 Bate, Craig. : *The Jana Sangh*, University of Pennsylvania Press Philadelphia 1969. p-75,

"According to Craig Baxter," The Praja Parishad was founded in November 1947, in Jammu and like Jana Sangh was built on R. S. S. base. The First President was *Hari Wazir* and the Gen. Secty was *Madhok*. Wazir was succeeded by *Lala Roop Chand Nanda*. Nanda was arrested in 1949. The Parishad began an agitation against the Government headed by Sheikh Mohammad Abdullah which was withdrawn when Abdullah agreed to release Nanda. Nanda resigned the Presidency and withdrew from Political Activity. His successor as President was Pt. Prem Nath Dogra."

3 *Jammu Rejects A Separate Constitution for J&K State*. A pamphlet published by the All J&K Praja Parishad, year unknown.

4 *Ibid*.



the State to the Union as final, complete, legally valid and beyond question.<sup>5</sup> The Party believed in the concept of India as a strong Unitary State.<sup>6</sup>

The Party which had previously criticised the convening of Consensus to draft separate constitution for the State, decided to contest the elections and demanded representation in Delimitation Committee.<sup>7</sup> Soon after the party leadership charged the National Conference and its Government of commission of malafide tactics,<sup>8</sup> number of irregularities<sup>9</sup> and dubious methods<sup>10</sup> in Jammu Elections and gave an ultimatum<sup>11</sup> and ultimately boycotted the elections under protest.<sup>12</sup> This gave rise to the Prashid war cry :

Ek Drsh men do Vidha—In one country two Constitutions ;

Ek Desh men do Nishan—In one country two Flags ;

Ek Desh men do Pradhan—In one country two Prime Ministers.

Nahin Chalengay ! Nahin Chalengay—Will not be tolerated<sup>13</sup> ;

5 *Programme*—Apamphlet published by the All J&K Praja Parshid Jammu, year unknown pl.

6 *Deendayal Upadhaya*, Presidential Address, Calicut, December 1967.

7 *The Hindustan Times*, 9th May 1951.

8 *A Statement* issued by Pt. Prem Nath Dogra, at a press conference held in New Delhi on 6th Oct. 1951. Praja Parshid Files, Jana Sangh office, Jammu.

(ii) *Praja Parishad stand Explained*—A Pamphlet issued by Durga Dass Verma, General Secretary. The all J&K Praja Parshid, Jammu year unknown, pp-8-14.

(iii) *A plea to understand Praja prashid*—A pamphlet issued by publicity secretary. The all J&K praja parshid-p-8.

9 *A Statement* issued by Pt. Prem Nath Dogra—to the press at Delhi on 6th October, 1951, mentioned the adoption of the following irregularities:—1. Not holding elections in the provinces of Kashmir and Jammu simultaneously ; 2. Irregular Delimitation ; 3. No general seat in three Constitutencies ; 4. Out of the way polling stations ; 5. 41 out of 65 nominations of praja parishid candidates being rejected on most flimsy grounds ; 6. Favour towards the National Conference Candidates ; and 7. Official interference.

10 The General Secretary of All J&K Praja Parshid in a letter to State Election Commission, dated 5th October 1951 made similar complaints. pp, *Files, Jammu Office*.

11 *Resolution* adopted by working committee of all J&K Praja Parshid dated 22nd Sept. 1951, *Jana Sangh Files, Jammu Office*.

12 *A Telegram to Prime Minister of India*—dt. 9th Oct. 1951. *Jana Sangh Files, Head Office, Jammu*.

13 *Madhok/Balraj : Kashmir Centre of New Alignment : Deepak Parkasha New Delhi-1963, p-24.*



A minor incident over the protest of a few students against hoisting of National Conference Flag in G.G.M. College on 15th January 1962<sup>15</sup> touched off the conflagration. The incident led to penalisation of the students<sup>16</sup> Students' hunger strike,<sup>17</sup> violence,<sup>18</sup> Police Lathi charge, firing,<sup>19</sup> partial paralisation of administrative machinery in Jammu city, intervention of the Military and imposition of 72 hours curfew<sup>20</sup> Under its cover, the entire leadership of Praja Parishad was arrested as the Government charged that the demonstration was organised and inspired by the Praja Parishad. There was a sharp reaction in the State as well as rest of India.<sup>21</sup> On the intervention of Mr.N G. Ayyangar, the then Minister of State of India, who visited Jammu in April 1952 to study the situation and cool passions,<sup>22</sup> they were released. But it left trail of bitterness

Meanwhile Mirza Mohd. Afzal Beg, the then Chairman of the Basic Principles Committee pointed out in the Constituent Assembly on March 24, 1952, that the State of Jammu and Kashmir would be "an autonomous Republic within the Indian Union, with a separate President, National Assembly, Judiciary, Regional Autonomy and separate citizenship."<sup>23</sup> Beg's statement was deeply resented not only in Jammu but also in Ladakh and rest of India and created serious apprehensions about the credibility of the leaders of Kashmir.

Regional discontent was also growing in Ladakh. In a memorandum submitted to the State Prime Minister Sheikh Mohd. Abdullah, Kaushak Bakula, Head Lama of Ladakh and member of the Constituent Assembly,

14 *The Jammu Disturbances* : Feb. 1952, Ministry of Information and Broadcasting, J&K Govt., year unknown, p-1.

15 *The Jammu Disturbances* : Feb. 1952. Ministry of Information and Broadcasting J&K, year unknown, p-1.

16 *The Hindu*, (Madras) 5th March 1952.

17 *A case for An open Enquiry* publicity Deptt., the All J&K praja paishad, year unknown p-1.

18 *The Tribune* Dt 11-2-1952,

19 *Ibid.*

20 *The press note* Issued by J&K Govt. on 9-2-1952.

21 i) The Resolution of the working committee of Akhal Bharaliya Hindu Maha Sabha of its, 2nd March 1952. ii) Shri Shibban Lal Sexena's speech in parliament on March 3rd, 1952.

22 *The Hindustan time* of 10th April, 1952.

23 *C.A. Deb. vol. II No. 1* of 23-2-1952 pp 3-4



demanding for a statutory provision in the future Constitution of Jammu and Kashmir under which State's North-Eastern Frontier Province of Ladakh covering Slnkiang and Western Tibet, would become a federation unit of Kashmir as long as the accession of the State to India endures". He urged that a separate Legislative Assembly of 15 members, with an Executive Council responsible to it, should be set up for Ladakh to run the internal administration of the area. He pointed out that under that proposal Ladakh would largely bear the same relation to the J&K State as the latter did to India. Asserting that under the circumstances Ladakh would have little or no voice in the State's 75-member Constituent Assembly where it was, in point of race, language and culture a perfect stranger to the rest of the members. He claimed that his plan was the best guarantee of the stability of the connections, of Ladakh with Kashmir. In case his plan was not deemed feasible, he added, then a committee of 10 members elected on the joint electorate basis be set up for Ladakh and no measure affecting the economic, political and religious life of the province be passed by the State Constituent Assembly or the J&K Government without its approval; all proposals emanating from the Statutory Advisory Committee be treated as the "Voice of Ladakh".<sup>24</sup>

Kushak Bukola had a talk with N.G. Ayyengar and repeated the demand that Ladakh be granted internal autonomy. Kashmiri leaders did not take kindly to these regional protests and were particularly provoked by the merger movement of Praja Parishid. Strongly reacting to the Praja Parishid movement Sheikh Abdullah, in a sensational speech at RS pura on the 10th April 1952, said that Kashmir's accession to India would be of restrictive nature and those who wanted Kashmir to lose its separate identity were talking without any conception of political realities that faced them.<sup>25</sup> In another speech at Hazratbal on 18th April, 1952, he said that Kashmir is in no way were prepared to renounce their cherished identity in furtherance of which they had offered blood and sweat during the two decades, Kashmir had acceded to India in respect of only three subjects-Defence, External Affairs and Communication and had the right to shape their destiny according to the wishes of the people.<sup>26</sup> In another speech at Hazratbal

<sup>24</sup> *The Statesman* dt 25-3-1952,

<sup>25</sup> *The Statesman* dt 12-4-1952.

<sup>26</sup> *The Hindustan Times* of 26-4-1952



on 25th April, 1953 he said that the whole world was aware of their policy that the Consenbly would decide three important issues : framing of the Constitution, the future of the ruling dynasty and the accession of the State<sup>27</sup> These speeches caused an uproar in Jammu particularly and the Indian Press<sup>28</sup> and public opinion<sup>29</sup> was also agitated.

Meanwhile events were moving fast with in the State. The Consenbly unanimously adopted the State Flag.<sup>30</sup> the interim report recommending the abolition of hereditary monarchy and the election of the Head of the State was also unanimously approved<sup>31</sup>

Pt. Prem Nath Dogra said that the decisions of the Consenbly were narrow-sighted and ill-conceived and reflecting one party's ideology that solely comprised the Consenbly. He added that these pronocutive decisions had caused deep resentment, throughout and particularly in the Jammu province.<sup>32</sup> While condemning such decisions, the Praja Parishad pointed out that the people of Jammu be made to cry for self-determination and that the will of the Kashmir valley people could not be forced on the people living outside it.<sup>33</sup> A campaign was then started throughout Jammu province to get 5 lacs of signatures in support of the Memorandum to the President of India<sup>34</sup>

Officially, a deputation<sup>35</sup> of Kashmiri leaders was summoned in Delhi on 12-6-1952<sup>36</sup> and held a series of discussion. Sheikh Mohd, Abdullah also joined them on July, 1952<sup>37</sup>. All this resulted in Delhi Agreement, 1952<sup>38</sup>. The Praja parishad was of the view that Agreement was another surrender at the alter of communal intransigence and separation of Sheikh Mohd.

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27 Ibid.

28 *Indian Express* dt 15-4-1952.

29 Speech of Sh. N. C. Chatterjee M. Z. in The house of people dt 20-5-1952.

30 C.A. Deb. vol. III No, 1 dt. 7-6-1952 p. 29.

31 C.A. Deb. vol. III dt 12-6-1952.

32 A Statement issued by Pt. P.N. Dogra, president of all J&K praja parishad dt. 12-6-1952

33 *Jammu rejects a separate constitution for the J&K State*, praja parishad Jammu year unknown p 14.

34 *The Statesman* dt 2nd July, 1952.

35 *The Times of India* dt. 23-6-1952.

36 *Delhi Express* dt, 27th July, 1952.

37 *Delhi Express* dt. 18th July 1952.

38 Lord Bird Wood : Two Nations and Kashmir p. 28.



Abudllal "A Fraud on India people and an Attack on Indian Aonstitution".<sup>39</sup> Pt. Prem Nath Dogra declared that Praja Parishad would launch a Satyagarch if the Agreement was enforced.<sup>40</sup>

The Parishad movement caused an adverse reaction in Doda District of Jammu also. A section of its inhabitants led by Goni being much agitated,<sup>41</sup> emphasised that if they had peculiar local problems<sup>42</sup> and historically, geographically,<sup>43</sup> culturally<sup>44</sup> were quite different from their neighbouring unit, they could not in any way be attached with the cultural unit of Jammu.<sup>45</sup> While stressing that it must be given the status of a separate cultural unit<sup>46</sup> like Jammu and Ladakh, they demanded the State to be divided into as many as five cultural units...Kashmri, Jammu, Poonch, Rajouri, Ladakh and Doda<sup>47</sup> in the future constitutional setup of J&K State. Each such unit, legally, having equal status should enjoy autonomy in the conduct of their internal affairs including maintenance of law and order within their own limits.<sup>48</sup>

The regional tension is also supposed to have provoked prominent Kashmiri leader Mr. G. M Karra to form the first secessionist party, Poititcal Conference, in Kashmir after 1947.

The State Government lost no time in implementing those provisions of the agreement which aimed at autonomy. Monarchy was abolished,<sup>49</sup> and Yuvaraj Karan Singh was elected as Sadar-e-Riyast.<sup>50</sup> Sheikh Abdullah was accused of ignoring those sections which confirmed Kashmir's ties with India<sup>51</sup> and provided coustitutional safeguard for Jammu and Ladakh as agreed by him. Meanwhile differences spread in his Cabinet and the working committee in regard to the interpret-

39 *Nehru Abdullah pact the unholy Agreement and Fraud* p.p. Jammu pp. 2-3.  
40 *The Organiser* (weekly) vol VI No. 11 dt. 27 October, 1952.

41 Goni, Abdul Ghani : *Doda District*, pamphlet, Doda dt. 24 July 1953.

42 *Ibid* p. 7.

43 *Ibid* p. 7.

44 *Ibid* p. 6

45 *Ibid* p. 10.

46 *Ibid* pp. and 10.

47 *Ibid* p. 3

48 *Ibid* p. 11.

49 *C.A. Deb*, vol IV No. V Dt, 21 August, 1952 p. 28,

50 *The Hindustan Standard* 15th Nov., 1952.

51 P.N. Bambzai : *His tory of Kashmi*, Metropolitam Book Company pvt, Ltd. 1st Education-1962 p-722.



ation and implementation of the Delhi Agreement.<sup>52</sup> But Sheikh Abdullah pointed out that neither he nor the smallest worker of the National Conference had said one word in violation of the Delhi Agreement.<sup>53</sup>

The Praja Parishad adopted an eight-point programme for Satyagrah<sup>54</sup> the details of which were settled by Pt. P.N Dogra and Dr. S.P Mukherji at Jullundur during Punjab Jana Singh session on Nov. 8, 1952. On November, 21, Pt. P.N Dogra and Sham Lal were arrested and the agitation started.<sup>54</sup> The movement assumed serious proportions and its repercussions were felt outside the State also. "Anti Kashmiri feelings in Jammu developed anti-Muslim overtones, while anti-Jammu reactions in the valley tended to become anti-Hindu and hostile to rest of the country."<sup>55</sup> Finally the three parties of India Jana Sangh, Ram Rajya Parishad and Hindu Maha Sabha merged together in a bid to organise the movement in Delhi proper.<sup>56</sup> Dr. S.P. Mukherji entered into a long correspondence<sup>57</sup> with Pt. Nehru and Sheikh Abdullah but nothing substantial came out. At later stage Dr. Mukherji even went to the extent of accepting Delhi-Agreement to withdraw the agitation provided all Praja Parishad workers were released and its leaders were invited to a Conference. But the offer was not responded.

A chain of multiple reactions had followed Sheikh's attitude towards Jammu : The agitation of the Praja Parishad, the role of its sympathetic organisations in India, its reactions in the valley and their counter-reactions in India, the planned process of precipitating a conflict between "Kashmir Nationalism" and "Dogra-Nationalism", and Ladakh and Doda's demand for the internal autonomy had created conditions favourable for the disintegration of the State and disruption of the unity of its people. Moreover, the relations between the two Governments (Government of India and the Government of J&K) and oppos-

52 *Vigil*—A political weekly edited by Manoranjan Guha Delhi vol. iv No 52, Feb, 13 1953 p-5.

53 *Ibid* p-15.

54 *Organiser* vol No VI vol Dt. 22nd Sept, 1952

55 *Ibid*.

56 *Post Election politics of Jammu & Kashmir*—a half turn pamphlet, Author and publisher unknown but printed at Ashoka Aart Press Shehidi chowk, Jammu, found in p. p. old files Jana Sangh Head Office Jammu.

57 Gupta, Joyti Bhushan Dass: *The Jammu & Kashmir*, Martinus Nijhoff the Hague 1968 p. 203.



ition groups in the State further deteriorated. Sheikh Abdullah was prepared to make some concessions to the separatists in Jammu and Ladakh. The Basic Principles Committee of the Constituent Assembly was thus instructed to study the idea of extending autonomy to each province of the State. The State C. A. was therefore, busy in drafting the constitution on a fully Democratic Basis.

The broad outlines had been drawn up and discussed at length by the working committee of National Conference in 2nd week of May 1953.<sup>58</sup> The committee asserted again that the relationship of the State with Indian Union would be based on the instrument of Accession of 1947, Art 370 and Indo-Kashmir Agreement of 1952. It was further proposed that the State would be divided into five units on cultural and linguistic line, each unit enjoying certain measures of autonomy strictly relating to internal administration.<sup>59</sup>

According to one version ..... the scheme of regional autonomy was on the following lines—"Three provinces, namely Kashmir, Jammu and Poonch--Rajouri were to have each as executive head a council of Ministers responsible to the Provincial Legislatures. As far as Ladakh and Gilgit matters, they were proposed to be administered by Regional Councils. Authority might be given under the State Constitution to the State Legislatures to increase or decrease the area of these autonomous units or establish new units,"

Broadcasting from Radio Kashmir, Srinagar on April 17th, 1953, the State Prime Minister, Sheikh Mohd Abdullah said,<sup>60</sup> "We have decided to give autonomy to the different cultural units of the State as will be provided in the Constitution that is being drawn up. This will remove all the fears of domination of one unit over the other and will make for the voluntary union and consolidation of the people of the State."<sup>61</sup>

Joseph Karbel defined<sup>62</sup> the cultural units as "The Valley, Jammu,

58 *Kashmir Affairs*—a bi-monthly vol 2 No 3 Jan.-Feb, 1960 p. 41.

59 *Hindustan Standard-Delhi* 2<sup>nd</sup> May 1955.

60 *Ibid.*

61 *Quomi Awaz (Weekly)* Jammu, July 1974 p. 75-78.

62 *Ibid.*



Gilgit, Ladakh and region consisting of the districts of Mirpur, Rajouri, Poonch and Muzaffarabad."

The idea seemed to be that a measure of autonomy in their internal affairs, would remove the fears of each of these units and would provide a moral natural and noncommunal impetus for a sense of belonging and political participation. Such a sense of belonging alone could effectively counter the appeal for secession in the valley or of communalism in Jammu - "only this can ensure their unity and contribute to the development of a sentiment of genuine Indian Nationhood in this vital part of the country."<sup>63</sup>

We, thus, find that certain forces within and outside the State interacted and caused some sort of polarisation among the various stand-points. The Jammu interactionists were never completely reconciled to the State's accession to India in the three subjects along the special status of Kashmir under article 370 of the Constitution of India, the Delhi Agreement of 1952 and even the proposal to give autonomy to the different cultural units of the State were unacceptable to the Praja Parishad. Their search for security induced them to agitate for a highly unified Constitution - with one Constitution, one President and one Flag for the whole of the country. The formation of the separate Consensus for the state, its own Sadar-i-Riyasat as the head, a separate emblem and a separate flag were, therefore, counter to their concept of a strong centre.

The stands of even the national-level parties happened to be confused and contributed to uncertainty about the shape of things to come. All this created a sharp reaction and uncertainty in Kashmir.

Pakistan, on the other hand, while taking advantage of this new situation tried to misinterpret the then emerging public opinion on Kashmir as chauvinistic and to exploit the parochial sentiments of the Dogra Nationalism as well as the religious feelings of the Kashmiris. This was intended to intensify their sense of insecurity and to create doubts in their minds as to whether India would stay secularist after Nehru's death.

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<sup>63</sup> Karbel, Joseph : *Danger in Kashmir*, Princeton University press 1966 p-34.



All this created political instability, suspense, uncertainty and economic stress. There was also an apprehension that the Kashmir leaders might get alienated from the popular support in the valley and therefore they started more assertive attitude.

Under these compelling circumstances Working Committee of the National Conference appointed 8 members committee, in May 1953,<sup>64</sup> to explore avenues of an honourable settlement of the accession issue.<sup>65</sup> The Sub-Committee, at its final session, held on 9th June 1953 adopted the following proposals as possible alternatives for an honourable and peaceful solution of the Kashmir dispute between India and Pakistan<sup>66</sup> :-

- a) Overall plebiscite with conditions as detailed in the minutes of the meeting dated 4.6.53.<sup>67</sup>
- b) Independence of the whole state with joint Indo-Pak control of foreign affairs and defence.
- d) Dixon plan with independence for the plebiscite area."

Then followed a period of studied inactivity and deliberate side-tracking of the main issue completing the constitution.<sup>68</sup>

Meanwhile by the sudden death of Dr. S.P. Mukherji, the President of the Akhil Bharatiya Jana Singh and the leader of opposition in the Indian Parliament, on 23rd June, 1953, in detention at Srinagar, the whole of North India was plunged in profound grief and submerged by a kind of anti-Nehru and Anti-Abdullah wave. Praja Parishad refused to believe that death in mysterious circumstances."<sup>70</sup>

But while explaining his innocence in this matter, Sheikh Abdullah pointed out.<sup>71</sup>

64 *Most. Election Politics of Jammu & Kashmir* op. cit. p. 8.

65 Gupta Joyti Bhusham Dass ; *The Jammu and Kashmir*, op. cit p. 206.

66 Sheikh-Abdullah-Sadiq Correspondence August to Oct 1956 Mridula Sarabhi 81/48 Chanakyapuri New Delhi (year not mentioned.)

67 *Ibid.*

68 *Ibid.*

69 *A Statement of Shri Durga Dass Verma A General Secretary All J&K Jammu* 25-6-1953

70 Mdahok, Balraj : *A Story of Bungling in Kashmir*, Young sia publications, New Delhi, year not mentioned p. 115

71 Gundeve. Y. D. : *The Testament of Sheikh Abdullah*, Palit & Plit publishers Dehra Dun, 1974 pp 42-43.



"Dr. Mukherji was a friend of mine and I had a great regard for him. Bakshi Ghulam Mohd held the portfolio of Home Affairs and Shyam Lal Saraf the portfolio of Health and Jails..... I could establish contact with Dr. Mukherji only through them. I did not even get authentic reports about his health from these people and I received the news of his death quite unexpectedly one morning." The rumblings of similar reactions were also heard in the Frontier district of Ladakh.<sup>72</sup>

Events thereafter followed each other in such rapid succession that one often missed the link between them.

Simultaneously there were inflammatory reports that Sheikh Mohd. Abdullah was thinking to declare Kashmir as Independent, the idea of which was said to be mooted by American Statesmen, Mr. and Mrs. Henderson<sup>73</sup> Stevenson, during his visit to Kashmir in May 1953, reportedly promised American support to the move.<sup>74</sup> Such reports again threatened to disintegrate J&K and to make it a pawn in international power politics.<sup>75</sup> However, Sheikh Abdullah pointed out that the charge of planning to declare Kashmir independent was completely baseless.<sup>76</sup> Moreover, when Sadiq Ali and Madhu Limaye during their visit to the State in 1954, "asked the leading spokesmen of the party(National Conference) and the Government, whether they had any documents in their possession which proved that Sheikh was in secret collaboration with Americans for carving out an independent Kashmir valley, they all denied that they had any such documentary proofs."<sup>76</sup> The tragedy was that Sheikh Abdullah was misunderstood and his urge for maximum autonomy for the State was just taken for independence.

An open rift in the camp of National Conference suddenly developed. In a cabinet of five members only Mirza Mohd. Afzal Beg continued to support Sheikh Mohammad Abdullah who decided to call a meeting of the Working Committee and General Council of the Na-

<sup>72</sup> Winer. Myron. *State Politics in India*, Chicago 1968, pp. 220-22.

<sup>73</sup> *Vigil* op. cit Feb. 13, 1933 p, 5.

<sup>74</sup> Karbel, Joseph ; *Danger in Kashmir* op. cit p. 237.

<sup>75</sup> *Crisis in Kashmir Explained*, Lala Rookh publications, Srinagar, year unknown, Introduction portion,

<sup>76</sup> Gundeva, Y, O *The Testament of Sheikh Abdullah* op. cite. p. 46.



tional Conference on 24th August and 26th August, 1953 respectively to endorse his new line and desired to make public his latest stand on 21st August, 1953 The Idd Day.<sup>77</sup>

The scene was now complicated enough to climax the tragic drama of Kashmir. On August 7th, 1953, three members of the cabinet led by Bakshi, accused Abdullah in a memorandum, sent to Sadar-Riyasat, of making arbitrary decisions, of being responsible for deterioration in the administration, nepotism, inefficiency and wanton wastage of public resources and alleged that the cabinet had lost the confidence of the people.<sup>78</sup> Sheikh Abdullah was summoned by the Sadar-i-Riyasat who suggested an emergency meeting of the cabinet for free and frank discussion at the palace.<sup>79</sup> But he refused and left for Gulmarg to spend the weekend.<sup>8</sup>

On the other hand, the Congress leadership and the leadership of National Conference in State too, which had an identity in their approaches and objectives in so far as their freedom struggle was concerned and adopted a similarity of views and strategies with regard to the politics of Government in pre independence, were then unable to adjust their political objectives and coordinate their political operations. Underneath the stable political facade there was a marked simmering discontent and disappointment at each other's performance.<sup>81</sup>

Thus "many birds were killed with the single stone of dismissal and subsequent arrest of Sheikh Abdullah."<sup>82</sup> But Sheikh Abdullah's political "martyrdom" on 9th August made him a popular hero of Kashmir once again.

The fateful crisis of 1953 was therefore, logically the result of inter-regional tensions in particular represented by Praja Parishad agitation of 1952-53, the motivational variations arising out of varied political considerations and failure of National leadership at various levels to reconcile divergent regional and Kashmir aspirations and claims as well the demands of national interests.

77 *Vigil*: Vol 4 No. 52 Study Feb. 13, 1953 p. 5.

78 *J&K Chronicle* (Magazine) Feb. 1976 pp 10-12 B. P. Sharma's article "New light on Sheikh Abdullah's Arrest" published by Sh. B. P. Sharma, Mohall Narayanan, Jammu

79 *The Times of India* Bombay August 10th 1953.

80 Bird-Wood Lord : *Two Nations in Kashmir* op. cit, p. 158.

81 *J&K Chronicle* (Magazine) op. cit. pp. 10-12.

82 Teng, Krishan Mohan : *Kashmir's Special Status* Oriental Pub. Delhi-1975, p-71

83 *A Study of Communist Movement in Kashmir*, Jyoti Prakashan, Gaziabad, year unknown



Sri Amaranatha Stotra pancharatnam  
of  
Raja Chandrachuda Simha Varman

By Dr. Y. B Singh

The *stotra* (eulogium) is inscribed on a stone slab deposited in S. P. S. Museum, Srinagar (exhibit No. 2169 c) which was originally found somewhere near Rajauri. The language fairly agrees with standard Sanskrit and speaks about the literary acumen of the composer. *In spite* of the lack of ingenuity the literary style, however, is simple and direct, some of the apparent irregularities, especially those of *sandhi*, are perhaps due to either carelessness or ignorance of the scribe-engraver.

The epigraph thus refers to a pious pilgrimage of composer Chandrachuda Simha Varman, the Raja of Atra Chandapur, a small Taluqa in the district of Raebareli (Avadh), Uttar Pradesh. The Raja was a scion of the Kanpuria clan of Kshatriyas and was adopted by the former owner of the estate Raja Jagamohan Singh.<sup>2</sup> Chandrachud Singh belonged to Siwan another abode of Kanpurias and was closely connected with the Simrauta house, a branch of Tiloi estate.<sup>3</sup>

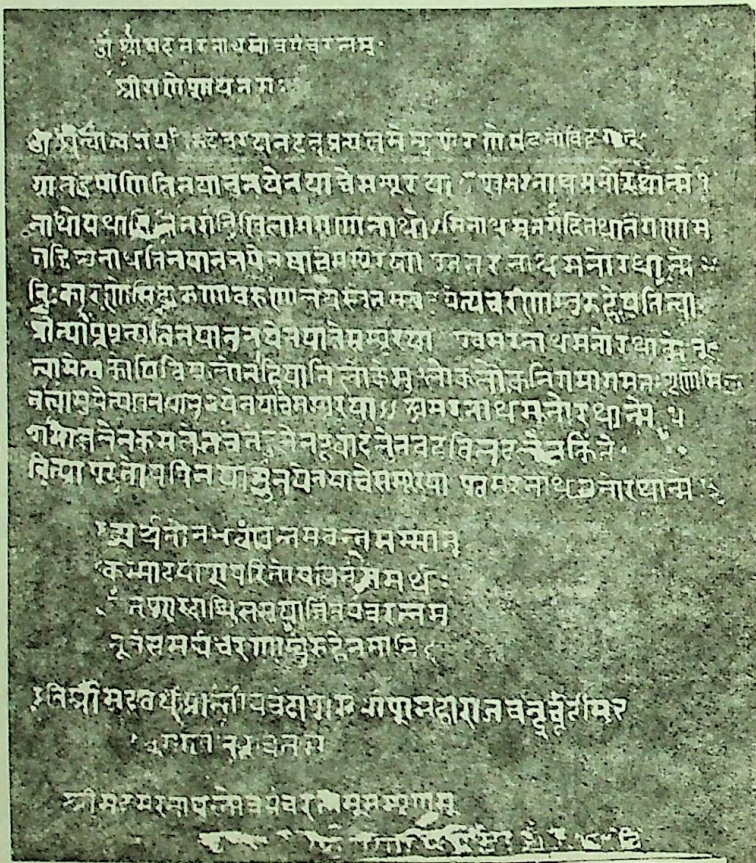
Assuming the reins of the Taluqa in 1904 Chandrachuda also later died issueless.<sup>4</sup> During his lifetime he seems to have started on a pilgrimage visiting several *tirthas* and the present *stotra* was engraved on stone when he visited the sacred shrine of Lord Amarnatha in Kashmir. The exact date of his visit is mentioned perhaps in the current Laukika Samvat of Kashmir and is partly mutilated, allowing little scope for exactitude. However, he according to Chandapur hearsay accounts, visited



this sacred shrine sometimes in third decade of the Century, obviously hoping for an issue as his aim. Whatever may have been the case, the inscription clearly indicates the popularity of Lord Arnananatha as the granter of all desires even in those days.

The text of inscription and its translation are given below.

## Text



## Translation

- १ ॐ श्री म द म र ना थ स्तो त्र यं च र त म
- २ श्री ग णं वा य न मः
- ३ ॐ श्रुत्वा त्व दीय विरुद्धं व र दा न द [६] प्रत्यक्ष में त्वं शरण म ह तो वि दू रा त
- ४ आ व द्ध पा णि वि न या नु न ये न या चे स म्पू र य इव मग्नाथ म नो र था न्मे १
- ५ ना थो य था सि नि त रां नि खि ला म रा णां ना थो ऽ सि नाथ सु त रां हि त था न रा णा म



- ६ त द्वि श्व नाथ वि न या नु न ये न या चे स म्पूर या श्व म र नाथ मनो र था न्मे २  
 ७ निः का र णो सि क रू णां वरु णा ल य स्तं व तस्मा दु पे त्य च र णा भु रु हे प  
 ति त्वा  
 ८ प्री त्या पु पू ज्य वि न या नु न ये न या चे स म्पूर या श्व म र नाथ मनो र था न्मे ३  
 ९ त्वा मे त्य को पि वि फ लो न हि या ति लो के सुखो-क लो क नि ग मा ग म तः श्रु  
 णो मि  
 १० त त्वा मु पे त्य वि न या नु न ये न या चे स म्पूर या श्व म र नाथ मनो र था न्मे ४  
 ११ गं गा ज ले न क म ले न च तं दु ल्बे न दू र्वा द ले न वि [त्व] दलेन कि ते  
 १२ नि त्या श्रु तो य वि न या न्द न ये न या चे स म्पूर या श्व म र नाथ मनो र था  
 न्मे ५  
 १३ इ त्य र्थं तो न भ ग व न्त भवन्त भस्मान्  
 १४ कस् मा द पो श परि तो ष यि तुं स र्म थः  
 १५ त त्वा रा दा न्धि स मु पा जित पं च रत्नम्  
 १६ नू नं स म र्प्यं च रणा म्बु रु हे न माभि ६  
 १७ इ ति श्री म द व ध प्रा न्तीय चं दा श [पु] रा धी श म हा रा ज चं द्र चू ड सि ह  
 १८ वर्मणा वि र चितं  
 १९ श्री म द म र नाथ स्तोत्र पंच रत्नम् सम्पूर्णम्  
 २० शु द्धा पा ढ पृ णि मा सं... [२] ७ ६ न र्जि

The eulogium begins with obeisance to Lord Ganesa.

O expert in bestowing boons (i.e. Lord Amaranatha) having heard your praises I, having come from a great distance, Seek your shelter with folded hands and with great respect I beseech you that you fulfil my Cherished desire at an early date.

Just as you are the overlord of the entire Community of Gods so are you the overlord of Human beings in all respects. Therefore, O Lord of the universe with all humility I request that you be pleased to grant my desire.

You are verily an Ocean of Compassion even without any reason ( beseechment ) Therefore, I prostrate myself with all devotion on your lotus feet and worship you respectfully.

No one has returned from you ( Lord Arnananatha ) without his (or her) desires being fulfilled. This, O deity of unblemished fame, I hear from all people of world, the *Vadas* and the *Agamas* Therefore, I approach you with devotion and regards ( for the fulfilment of my desire)



Why should I worship you only with the sacred waters of Ganga, the lotus, rice (*akshata*) Sacred grass and *13 vilvapatra* (leaf of wood-apple) alone [ as these are essential ingredients used in worship since remote past ]? Instead, I, always worship you in all humility and respect with the waters of my tears [ with a request to grant my desire ].

How are you not Competent to grant my desire O Lord [when we learn from all account that ] you are in every way empowered to satisfy our wishes. Therefore, with the offering of this *pancharatna (stotra)* obtained from the ocean of Learning and having tears in my eyes I bow on your lotus feet [ with a request to grant my desire ].

This *Pancharatna Stotra* in the praise of Lord Amaranatha has been Composed and offered by Chandrachuda Simha Varman, Maharaja of Chandrapura on the full moon day of *suddha Ashadha* in the year ..... [2] 76 (of some unspecified era).

Explanatory notes and evidences :

I am thankful to Epigraphy branch of the A. S. I. for granting permission and providing photograph of the inscription carrying *stotra* for publication. I also acknowledge my indebtedness to Chief Epigraphist Dr. K. V. Ramesh and Deputy Superintendent Epigraphy Dr. S. P. Tewari in this regard.

- 1 Nevill, H. R., *Rai Braily Gazetteer (District Gazetteers of the United Provinces of Agra Oudh)*, pp. 86, 160.
- 2 *Ibid.*, p. 86; see also *A Short Memoir of every Taluqdar of Oudh*.
- 3 Nevill, H. R., *Op. Cit*, p. 86.
- 4 *Ibid*, On inquiry I was informed about his being issueless. The present Taluqdar was adopted by his wife.
- 5 My suggestion is that the date is in Vikrama samvat and the numerals preceding 76 were 19 i. e. the year being 1976 V.S. Corresponding to A. D. 1919-20. This date, if accepted, is supported by the tradition popular in Chandapur that the Raja went on pilgrimage immediately after the first world war.











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# Journal of Government and Political Studies

Vol. VIII

MARCH & SEPTEMBER-1986

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## IN THIS ISSUE.....

- The Governor and Civil Services.....*Dr. N. S. Gehlot*  
Security of Andaman and Nicobar  
Islands.....*Dr. R. N. Misra and S. S. Groha*  
Political efficacy Among University  
Youth in Punjab.....*Manjit Singh*  
Demand For State Autonomy in India.....*Dr. Dalip Singh*  
—Some Basic Issues and Problems  
Nuclearisation of Indian Ocean  
—A Threat to India's Security.....*Satyavir Singh*  
Politics of Students: A Study of  
Punjabi University, Patiala.....*Kuldeep Singh*  
Working of UN Sanctions against  
Rhodesia—The Problems of Zambia.....*Manju Verma ✓*

DEPARTMENT OF POLITICAL SCIENCE  
Punjabi University, Patiala-147002 (India)







## WORKING OF UN SANCTIONS AGAINST RHODESIA THE PROBLEMS OF ZAMBIA

Manju Verma\*

Zambia became an independent country on October 24, 1964 following the dissolution of the Central African Federation. More than most other colonies, it was bound to be a hostage state by its location. Being land-locked, it had all its trade routes with the outside world running through the states which were dominated by white minority regimes. It had Southern Rhodesia to the south, Portuguese colonies of Mozambique and Angola respectively to the east and the west, South Africa lay a little more to the south but always loomed large and ominous on its horizon. As its exports and imports were served by the ports in the white regime countries, they were in a position to strangle its economy any time at a single stroke.

After its independence, Zambia started assuming the role of the spokesman of the hopes and fears of the people of the Central and South Africa in the international and regional organisations such as the United Nations, the Commonwealth of Nations, the Organisation of African Unity, etc. There were reasons why it could not be indifferent to the happenings particularly in Southern Rhodesia. Firstly, its major trade outlets lay across Southern Rhodesia. Secondly, with in about an year of its own independence, the white Southern Rhodesian Government led by Ian Smith made the UDI an accomplished fact on November 11, 1965. It could not remain impervious to the cry of anguish and anxiety of the fellow Africans who had been clamouring for "independence only with majority rule". Thirdly, soon, after independence, some of the Southern Rhodesian banned nationalist movements, like ZAPU and ZANU started, though secretly at first, to operate from the Zambian soil. Lusaka; its capital, became the refuge of most of the African political leaders in exile from Rhodesia.<sup>1</sup>

### **Zambia's Dependence Upon Southern Rhodesia**

A common border, running for 400 miles along the Zambesi River, divided Zambia from Southern Rhodesia. The two countries shared

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a number of common services such as 'Central African Airways', the Rhodesian Railways', and above all the 'Kariba Dam Hydro-electric Works'—the main source of the supply of electricity for copper mines in Zambia. The Kariba Project was operated by the 'Central African Power Corporation' which was jointly owned by the two countries. Its affairs were administered by an authority comprising an equal number of members from Southern Rhodesia and Zambia. But the Dam site was on the southern side of the Zambezi River in Southern Rhodesia. It meant that Southern Rhodesia could cut off electric supply at any time, blacking out Lusaka and the Copper belt, and flooding the Copper mines because the pumps would cease working.<sup>2</sup>

In the matter of railway transport also, Zambia was completely at the mercy of Southern Rhodesia. Being land-locked, its access to sea was by means of the Rhodesian railways. One railway line ran from Ndola, key city of the Copper belt, to Umtali, a Rhodesian town on the Mozambique border. It extended further to link Umtali to the sea-ports of Beira and Lourenco Marques (now Maputa) in Mozambique. Another railway line connected Zambia with the Rhodesian city of Bulawayo and then passing through Botswana provided connections with the sea ports in South Africa<sup>3</sup>

The role of the Rhodesian railways was very crucial for Zambia. They freighted 7,60,000 tons of Copper (Zambia's main export) annually. Copper account for 90 per cent of Zambias exports and almost 15 per cent of the World's annual production of the metal. Moreover, earnings from Copper constituted about 60 per cent of the Governments revenue and its value formed 44 per cent of the net domestic product.<sup>4</sup> The railways were also engaged in delivering Coal from the Wankie Coal mines to the copper mines. They freighted almost all of Zambia's imports of food, machinery, oil and petroleum products, cars, trucks, medical supplies, etc.<sup>5</sup>

In fact, Zambia stood at the periphery of the Southern African sub-system by virtue of its trade and transport links with Rhodesia. These links represented the legacy of the Central African Federation which had made Zambia dependent on Southern Rhodesia for power, coal, oil and petroleum products, and transport routs to the sea ports of Mozambique and South Africa<sup>6</sup> In 1964, its trade with Southern Rhodesia amounted to £ 30,000.000 and with South Africa £ 16,000,000.<sup>7</sup> The position existing at that time was summed up by Dr. Kaunda as follows :'' Our economy has been planned in such a way as to depend upon Copper alone, while we were made a cheap dumping ground for the South African and the Rhodesian goods''<sup>8</sup> All of Zambia's exports and 95 per cent of its imports passed through



Southern Rhodesia or South Africa or the Portuguese territories of Mozambique and Angola. Thus, the fact was that "Zambia's independence on October 24, 1964, did not represent a total break with its colonial past as Northern Rhodesia. The period of the British rule had created a structure of dependence on Southern Africa".<sup>9</sup>

Another problem was created by Southern Rhodesia becoming the residuary legatee of the dissolved Central African Federation. At the time of the break-up of the Federation, as a result of the decision arrived at the Victoria Falls Conference, Britain transferred intact the Federal Air Force to the White minority regime in Salisbury.<sup>10</sup> It was at that time the most powerful air force on the African continent. The persistent rumours of the forthcoming UDI (unilateral Declaration of Independence) by the white minority regime in Southern Rhodesia naturally caused tremors of fear in Zambia.

#### **Zambia's Reaction to UDI**

Hence, when UDI became a reality, Zambia found itself in an extremely vulnerable and defenceless position. Fortunately for Zambia, British economy could not afford to dispense with the supplies of Copper from that country without being grievously hurt. For this obvious reason, the British Government was obliged to act on November 17, 1965. Dr. Kaunda was encouraged formally to request the British Prime Minister to send troops to guard the Kariba installations. But it was not till December 1, 1965, that Wilson was able to announce that the British Government had agreed to meet the Zambian President's request for air defences. A squadron of Javelin aircraft, complete with RADAR equipment and a detachment of the Royal Air Force Regiment to ensure the protection of the aircraft and the installation at Kariba, was despatched. In addition, as a precautionary measure, H.M.S. Eagle was asked to cruise off the coast of Tanzania.<sup>11</sup> However, the squadron of the Air Force was withdrawn in August, 1966. The "Times of Zambia", in its issue of August 26, 1966, commented editorially that with the departure of the Javelins goes the first and the last visible proof that the British might have once considered a military encounter with Rhodesian rebels. The fighter squadron never fired a shot in anger; and every time the planes took off, it was with the approval of Salisbury's Air Traffic control. They were a costly symbol of good action without resultant action."<sup>12</sup>

The creation of the Zambian state and its exit from the Central African Federation led to a national policy of disengagement from the white South and co-operation with the black neighbours to the north. The nationalist movement in Northern Rhodesia (Zambia)



not only opposed the imperial connection but also the domination by the white settlers in Southern Africa.<sup>13</sup> Given its inheritance of both economic and social subordination Zambia preferred to pursue a policy of disengagement from the minority regimes as its immediate and major foreign policy objective. Its commitment to disengagement was tested and re-inforced by Rhodesia's UDI.<sup>14</sup>

After the Declaration of the UDI, President of Zambia, Kenneth Kaunda, appealed to the British Government to take immediate steps, including the use of force to restore legality there and prepare the area for transition to the African majority rule. Indeed the government of Zambia offered the British the use of its own territory to militarily cope with the grave situation in Rhodesia.

The unwillingness of Great Britain to use force against the white minority rule was in contrast with Zambia's commitment to support the majority rule in Southern Africa. It was the disillusionment of Zambia, especially of its President, which led it to escalate its commitment to the Rhodesian nationalists by the provision of facilities to their main political parties in exile.<sup>15</sup> Zambia shared the concerns of other black African frontier states to advance political change in white ruled states by making use of a variety of means, including guerrilla action.

The policy of the imposition of economic sanctions pursued by the British government was bound to prove an economic disaster for Zambia. Kaunda was of the firm conviction, that sanctions could never bring about the desired results as Rhodesia, with the great deal of help from other two white neighbours and from the west would be saved any privations.

If Zambia had applied the sanctions completely it would have hurt itself to an unacceptable degree. It would have, in addition, faced economic reprisals. There would have been an immediate and total dislocation of railway services, the copper mines would have gone without coal and power. As a result, the copper industry would have collapsed. This situation would have led to complete economic break down.

Thus, it is amply clear that there were a number of constraints upon Zambia's breaking-off economic ties with Southern Rhodesia. From the outset, the British Government pressed Zambia to reduce its trade with Southern Rhodesia, it reacted favourably immediately to the British suggestion and immediately tried to reduce its trade with Rhodesia. In 1965 Zambia had imported goods worth about \$ 99.5 million from Rhodesia. In 1966, it cut the imports down to \$ 65 million and 1967 to \$ 47 million.<sup>16</sup> Zambia's export to Rhodesia fell from \$ 15.26 million in 1965 to \$ 7.0 million 1967.<sup>17</sup>



One paradoxical result of Zambia's break with Rhodesia was an increase in its trade with South Africa. In the short term, South Africa offered an alternative source of supply for goods which Rhodesia previously provided. For example, in 1967, South Africa was Zambia's chief supplier of goods with exports valued at \$ 86.3 million.<sup>18</sup> Although Zambia continued to rely on the economic links with its white Southern neighbours, yet its aim was to reorient its economy and supply routes. As an alternative to its reliance on Rhodesia, it developed its own resources in coal and hydroelectric power. She started purchasing manufactured goods from sources other than traditional suppliers. Subsequently it proved to be very significant.

In spite of all constraints, Zambia decided to break off economic ties with Rhodesia, though not at one stroke but gradually. Sanctions were imposed in stages. It first imposed Trade restrictions on Rhodesia in December 1965. It removed Rhodesia from the Commonwealth preference area. In May, 1966, it imposed financial sanctions against the latter. It refused to forward the surplus railway revenue from the accounting centre at Broken Hill to Bulawayo. Payments of dividends were stopped. Interest due to Rhodesia was withheld. Rhodesia's accounts for the former railways and power organizations were likewise frozen. Zambia took the above steps mainly to demonstrate its opposition to the continued white minority rule, and also to conform, as far as possible, with the UN call for the economic sanctions. Although Kaunda had always been sceptical of the effectiveness of the sanctions, yet he was certainly not prepared to miss doing anything that could contribute to the discomfiture of minority regime in any way.<sup>20</sup>

The white minority regime in Rhodesia retaliated with full might. On December 8, 1965, it forbade all its exporters to accept payment from the Zambian traders in pound-sterling. It asked them to have their payment in the Canadian or the US dollars or in a West European currency.<sup>21</sup> Again, on December 13, 1965, oil supplies were banned to Zambia.<sup>22</sup> Oil was air lifted to Lusaka by the British and the Canadian Air forces from December, 1965 to November, 1968. The United States also joined in the oil air-lift from January, 1966 to November, 1968.<sup>23</sup>

Ian Smith took another retaliatory measure by doubling the royalty and export tax on coal. Though this tax was suspended on January 1, 1966, but it clearly demonstrated the way in which Ian Smith could have held Zambia to ransom.

Ian Smith also reacted to the financial sanctions imposed by Zambia. It asked the Zambian exporters to make advance payments



in a convertible currency, if they were to transport their goods, including copper, on the Rhodesian section of the railways. The illegal regime made it clear that the traffic from Zambia would be accepted only if total charges were paid at the destination or were paid by Zambia in advance.<sup>24</sup> As a result of this decision, the rail traffic was dislocated. Copper shipments of the order of 16,000 tons were held-up on the Rhodesian side, as Zambia refused to allow its copper companies to make payments as desired by the Rhodesian Railways.<sup>25</sup>

But the Zambian Government had to reverse its decision later and made arrangements by which copper consumers arranged to pay for the necessary transit facilities South of the Zambezi. Such intermediaries paid Ian Smith in foreign exchange.

Zambia made a determined effort to develop alternative trade routes for its goods. A 12000 mile long road to Dar-es-Salaam was built in the years following UDI. It was known as the "Hell Run", because it was almost impossible to negotiate during the rainy season. Finally a 1,0,49 mile oil pipe line was built; the construction was carried out by an Italian Company.<sup>32</sup>

Another rail link between the port of Dar-es-Salaam and the Zambian railway system at Kapiri Hposhi, got completed in October, 1975 with the help of China and Tanzania.<sup>26</sup> Another trade route was also tried. It passed through Southern Congo and Angola to the port of Lobito. But this route was not much operative on account of guerrilla warfare going on in Angola. Thus the Rhodesian railways still continued to freight the major part of Zambia's copper exports. The Zambian government was forced to pay £ 14,000,000 in fuel transport subsidies and early in 1968 Kaunda estimated that sanctions had cost Zambia £ 35,000,000. That was considered by many economists, as a conservative estimate<sup>27</sup>. Kaunda once remarked :

"There is no struggle which has been so expensive for Zambia as.....the one currently waged in Zimbabwe. We have spent millions of Kwacha. We have lost more lives and property to assist Zimbabweans in their liberation struggle than we have lost in the armed struggle to free Mozambique and Angola..... It is a fact that no country.....apart from Zimbabweans themselves, suffered more for the freedom of Zimbabwe than Zambia".<sup>28</sup>

On January 9, 1973, the illegal regime of Ian Smith closed its borders with Zambia in retaliation against the guerrilla attacks, which, he claimed, had been mounted from the Zambian territory.



The announcement made it clear that all rail and transport out of Zambia (except for copper exports) would be prohibited. The ban was meant to have a serious impact on Zambian imports, more than half of which had continued to come through Rhodesia from South Africa and Mozambique ports. But the ban had a boomerang effect. It meant a considerable blow to the Rhodesian Railways in terms of the loss of freight revenue.<sup>29</sup> Zambia had already by that time diversified a considerable amount of its external trade, and alternative routes of transport, both rail and road were being prepared and utilised, including the new railway link being constructed with the help of China. While Zambia could be hard pressed to get all of its copper out of the country or essential imports into the country nevertheless, Kaunda banned further copper exports through Rhodesia. The following month he confirmed that the border would remain closed permanently, i.e., till the coming of the majority rule there.<sup>30</sup>

#### **International Aid to Zambia :**

Zambia could not apply economic sanctions completely against the Smith regime due to the absence of trade outlets to the sea. This made it a victim of the retaliatory measures taken by the white minority regime. Zambia transport problem was an important weapon in the hands of Ian Smith with which it threatened Zambian government any time it liked. According to a UN report, it cost Zambia more than US \$ 800 million to apply the various mandatory sanctions against Rhodesia.<sup>81</sup>

Britain had kept the pressure on Zambia to implement the sanctions. But it was not until February, 1977, that it signed the first support cost agreement with Zambia. The total support given came to 13,850,000, i.e., about 1/3 of what the sanctions had already cost Zambia.<sup>32</sup>

The hardships faced by Zambia called for the UN assistance. The International Community responded to Zambia's need only after 1973. In a series of resolutions, it undertook to cover the costs of the sanctions to Zambia. The Security Council adopted resolution 326 (1973), which condemned Rhodesia for all the acts of provocation, harassment, economic blockade, blackmail, and military threat it had committed against Zambia in collusion with the racist regime of South Africa. It demanded the withdrawal of South African troops from Rhodesia and from the borders of Rhodesia with Zambia. It also called upon Britain to ensure the effective implementation of the above demand. It provided for a four member special mission to assess the needs of Zambia. Resolution 327 (1973) spelt out the terms of reference of the special mission. It was asked to take into account and assess the



need of Zambia in maintaining the alternative systems of road, rail, air and sea communications for the normal flow of its traffic.

The Mission discussed the problem faced by Zambia. It was estimated that if Zambia was to route its cargo through the country in its neighbourhood, (Tanzania) it would cost US \$ 124 million. It also noted that air freight would cost another \$ 6.5 million. It agreed that Zambia also needed technical assistance. It summed up its findings by saying that "only adequate and timely assistance will make it possible for the economy of Zambia to continue to develop in a normal fashion."<sup>33</sup>

The Security Council accepted the findings of the Mission, by passing resolution 329 (1973). It requested the 'Economic and Social Council' to consider periodically the question of economic assistance to Zambia.

A team of the UN officials visited Zambia in 1976. It reported to the Economic and Social Council that the monetary cost to Zambia on account of the closure of borders was \$ 449 million. It was in addition to the sum of \$ 195,019,852, spent by the government of Zambia as contingency expenditure from 1965-68.<sup>34</sup> The government of Zambia had also spent a sum of US \$ 100 million by way of recurring expenditure. It would not have required to spend so much had it refused to the UN sanction programme. Its positive response to sanctions cost Zambia a sum of US \$ 650 million in 10 years.<sup>35</sup>

The response of the International Community came in the form of cash grants, grants in kind, and soft loans estimated to US \$ 69 million. From 1965-73, Zambia got a total of US \$ 200 million by way of foreign economic assistance.<sup>36</sup> It is clear that Zambia suffered great much losses, and the help of International Community did not compensate it for its losses.

From the predicament of Zambia, it is very much clear, that the economic measures taken against a target state can rebound on countries which have close relationship with the target state. It also clearly demonstrates the fact that, while, imposing any kind of international boycott, the geo-political situation of the target state is a vital determinant of the success or failure of the sanctions programme. So far as Zambia was concerned it was committed to the elimination of the white minority rule in Rhodesia, but its dependence on Rhodesia made it practically impossible for it to enforce the UN sanctions fully. Instead of punishing Ian Smith regime by agreeing to impose sanctions, it became the target of Ian Smith's sanctions.

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30. The Zambian government had to reopen the border in 1978. There were various reasons for that : The business community put pressure on the Zambian government. By mid 1978, some 80,000 tonnes of Zambian imports were held. Moreover about 100,000 copper ready for export was piled up either at the mines or the port itself. The port of Dar-es-Salaam was congested. The line also suffered from operational problems. The copper prices also fell from US \$ 2,600 to US 1, 200. Zambia a faced its worst possible slump since Independence. For details See *Africa*
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## **Journal of Government and Political Studies**

### **EDITORIAL OFFICE :**

**Department of Political Science, Punjabi University, Patiala-147002 (India)**

The Journal of Government and Political Studies is published bi-annually during the months of March and September of every year. The annual subscription rates are as follows :

Inland	...	Rs. 20.00	Single Copy Rs. 10.00
Foreign	...	\$ 6	
		£ 4	

*Note* :—Subscription may preferably be sent by Money Order or through Postal Order/Bank Drafts. A Bank Commission of Rs. 3.50 (4sh, or 90 Cents) should however be added in case of payments by cheque.

All correspondence concerning contributions, book reviews, advertisements and other information regarding the Journal should be addressed to the Editor, Journal of Government and Political Studies, Punjabi University, Patiala-147002.

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*Note* :—The Journal of Government and Political Studies is being abstracted in the International Political Science Abstracts, 27 Rue Saint Guillaume, 75007, PARIS (France).

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IV

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سرینگر - کشمیر

فون - (۷۲۸۳۲/۷۲۸۲۷)

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سرینگر اور وادی کے مختلف حصوں میں مسلسل ترمیمیاتی وجہ سے یہ کتنا مشکل ہے  
کہ بیش ضرورت کے بعد اس تک کے قتل عام میں کتنے سو لوگ فوج اور نیم فوجی دستوں کی گولیوں  
کے نشانہ بنے۔ اگر فیوکلن طور پر جانے کے بعد یہاں ظلم ہو سکے گا کہ اس قتل عام میں کتنے سو  
گھر تباہ اور تاراج کیے گئے ہیں۔  
ڈاکٹر فاروق عبد اللہ نے کہا ہے کہ افوس ناک اور مفلکہ منبر بات یہ ہے کہ اس  
انتہائی سنگین صورتحال سے ذمہ دار بیرونی کثیر دُنيا کو یہ باور دلانے کی کوشش کر رہے  
ہیں۔ کہ کچھ عرصے کے بعد یہاں صورتحال بدلتی ہو رہی ہے۔  
ڈاکٹر فاروق عبد اللہ نے کہا اس مرحلے پر جبکہ کشمیر کی صورتحال انتہائی سنگین ہے  
اور کشمیر کے لوگ اپنے وطن ملک کو فوج اور نیم فوجی دستوں کے بمباروں اور وسیع پیمانے  
میں تبدیل ہوتے ہوئے دیکھ رہے ہیں۔ میں ملک اور بیرونی ملک انسانیت کے علم برداروں  
سے اپیل کرتا ہوں کہ وہ کشمیری اس انتہائی خطرناک صورتحال میں مداخلت کرنے فوج  
اور پیرا ملٹری حصے فورسز کے بمباروں کے قتل عام کی بین الاقوامی سطح پر محققانہ  
کرائے لے آواز اٹھائیں۔

Capt to

Mr. Ramn

of C. A. 9

for submission

Tahira Muzki

National Security to

Dr. Farooq Abdullah  
M. L. A.



3.5

# A ANALYSIS OF THE MEMBERSHIP OF THE CONSEMBLY JAMMU

Every Biographical study has shown that Parliaments<sup>1</sup> and Legislatures are quite atypical of the population they represent.<sup>2</sup> Consemblies are not exception. Thus before analysing the work of the Consembly it seems appropriate to study the members, <sup>in</sup> ~~is~~ <sup>as</sup> so far it is possible to do so, to see what general observations and implications, if any, may be drawn from such an analysis. Moreover that efficiency and ability of Consembly in the ultimate analysis depends upon the members and the level of their skills, political acumen, expertise and vision. After all who were these public servants; what was their religion; their sex; their education; their age; at what age they entered <sup>did</sup> ~~in~~ politics; their occupations; their <sup>annual</sup> ~~income~~; how many times imprisoned and for what duration; and their previous experiences - Legislative, administrative <sup>or of the</sup> ~~and~~ Local Government? <sup>self</sup> ~~experience~~.

3.5.1

## Source of information and methods of analysis.

The categories of religion; education; ~~xxxxxx~~ age <sup>which</sup> at ~~what~~ took part in politics; occupation; income; number of times imprisoned and for what duration; and previous experiences such as Legislative, Administrative and Local <sup>of the</sup> ~~Government~~ <sup>self</sup> be used to gain insights into the important social characteristics of the members. "There are two possible methods of constructing ~~an~~ empirical study of contemporary ~~xxxx~~ elites. The first, which uses questionnaires, is thorough but difficult. The second <sup>who's</sup> which implies a ~~xxxx~~ who, is simple but less than thorough."

1. Digest of Statistics Jammu & Kashmir <sup>1976</sup> J+K Govt. Planning Deptt Srinagar, Oct. 9, 1957. P 13. Population J+K in thousands in 1951 was: -  
Jammu province = 1189  
Kashmir " = 1679  
Frontier Dist " = 80  
Total = 2948. (2)
2. Wahlke C. John, Elihu Heinz, Buchanan William and Furguson C. Leroy -- "The Legislative System" John Wiley and Sons, Inc., New York, London, 1962 P.486.
3. Marshall R. Singer, A study of political Leadership in Ceylon. The M.P.T. Press Massachusetts, Institute of Technology Cambridge Massachusetts. P.51, 1970.



x source of But Census of India 1961 vol. VI Jammu & Kashmir  
 part II-A mentioned that no census could be held in this  
 (J&K) state in 1951. due to unfavourable conditions then obtain  
 the population of the state and the district as given  
 in Table A-II has however been calculated by  
 adding to the adjusted population of 1941 the decadal  
 increase, as reflected by the 1961 census for the  
 state as a whole and for each district."  
 Table A-II P. 78 give the following figures. —

<u>Jammu &amp; Kashmir</u> <del>in 1951</del>		<u>Per 1000</u>	<u>Male</u>	<u>Female</u>
J & K	in 1951	3,253,853.	1,736,827.	1,517,025.
P. 78	Kashmir Province	1,795,304.	966,444	828,860.
P. 79	Jammu Province	1,458,548.	770,383.	688,165.
P. 79	Ladakh district	82,340.	41,385.	40,955.

But 1st information is ~~authentic~~ <sup>authentic</sup> as the sources were  
 The Census Report of India as well as electoral rolls.







Besides these interviews the information from thumbnail biographical sketches appearing in Constituent Assembly ~~xxx~~ who's who was exhaustively utilized to supplement this material where-~~ever~~ possible. An attempt to gain <sup>access</sup> ~~assess~~ to the files of the then Franchise Department also failed as it is classified material and <sup>not known open</sup> ~~thus can not be shown~~ to scholars.

3.5.2

#### RELIGIONWISE DISTRIBUTION OF THE MEMBERS OF CONSEMBLY.

The Muslims, representing 68.3 per cent. of the population of Jammu and Kashmir State, held 66.66 % of the seats in the Constituent Assembly. The Hindus, representing 28.5 % of the population, held 22.21 % of the seats. The Sikh, on the other hand, representing 1.7 % of the population of the State held 3.85 % seats while the Budhists, representing 1.4 % of the population, held 1.28 % of the seats. The religion wise breakdown <sup>up</sup> is as under:-

Table No. 5

Sl.No:	Religious : preference:	No: of persons	Percentage Percentage
1	Muslims	52	66.66
2	Hindus	22	22.21
3	Sikhs	3	3.85
4	Budhist	1	1.28
5	Other	-	--
Total		78	100.00

3.5.3

#### DISTRIBUTION OF MEMBERS BY SEX.

~~The~~ Women have played insignificant role in the State politics especially in the pre-independence period and first half decade of the post-independence <sup>era</sup>. The reasons were their backwardness (partly because of religious convictions and partly ~~because of~~ otherwise), illitracy and thus lack of political consciousness. <sup>Of the total the female members numbered</sup> ~~only 2.56 % were the female members~~ whereas rest of 97.44 % were male members in the Consembly.

Table No. 6



Table No: II (6)

Sl. No:	No. of members	Sex	Percentage
1	76	Male	97.44
2	2	Female	2.56
	<hr/>		<hr/>
	Total 78		100.00
	<hr/>		<hr/>

3.5.4

#### EDUCATION BY RELIGION OF THE MEMBERS OF CONSEMBLY

Regarding education by religion of the members of the Constituent Assembly, out of 66.66 % of the Muslim members 3.85 % could simply read and write; 9.62 % had the knowledge of Persian, Arabic and Buddhist scripts only; 11.54 % ~~possessed~~ <sup>possessed</sup> either primary <sup>or</sup> middle education; 19.22 % had High school education; 9.62 % had College education; 1.92 % were M.Sc. ; 11.54 % had B.A.LL.B qualifications; 7.69 % were MA.LL.B; 7.69 % had Indian degrees and educational qualification of 17.31 % was unknown.

Out of 28.21 % of Hindu members 13.64 % could simply read and write 9.09 % had Primary or Middle School Education; 18.8 % had High school education; 13.64 % College education; 4.55 % were M.A; 13.64 % were B.A.LL.B; 33.34 % were M.A.LL.B and the educational qualifications of ~~18.20%~~ 18% was unknown.

Out of 3.85% of Sikh members of the Consenbly 33.33% had either Primary or Middle education ; 33.33% had College education and 33.34% were M.A.LL.B.

Out of 1.23% of the Buddhist members 100% had the knowledge of Buddhist script.

The over-all position was that out of 78 members elected to the Consenbly 6.41% could <sup>only</sup> read and write; 7.69% had the knowledge of ~~xx~~ Persian, Arabic <sup>or</sup> and Buddhist script; 11.54% had Primary or Middle education; 17.95% had High School education; 11.54% had College education; 2.56% had M.A./M.Sc. qualifications; 11.54% were B.A.LL.B; 7.69% were M.A.LL.B. 6.41% had Indian Degree and Educational qualification of 16.67% was unknown.



②

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3.4.5

# AGE DISTRIBUTION OF MEMBERS.

The age of ~~the~~ membership ranged from 25- twenty-five to sixty years. The highest percentage of members was in the age group 31-35 representing 25.64% of the total membership. The next highest percentage 19.23% was in the age group 41-45 years. There were not many members between 51-60 years but only 6.41% of the total membership. There was none above the age of 60. The age group of 3.85% of the <sup>total</sup> membership is not known. The complete break<sup>up</sup>down by the membership by age is as under:-

Table No: IV (8)

Sl.No:	Age group	: No. of persons	: Percentage
1	Between 25 and 30	12	15.38
2	-do- 31 " 35	20	25.64
3	-do- 36 " 40	10	12.82
4	-do- 41 " 45	15	19.23
5	-do- 46 " 50	13	16.67
6	-do- 51 " 60	5	6.41
7	-do- 61 " 70	-	-
8	unknown	3	3.85
Total:-		78	100.00

3.4.6

# THE AGE AT WHICH THEY TOOK ACTIVE PART IN POLITICS.

The age at which the members took active part in politics ranged <sup>from</sup> ~~between~~ below fifteen ~~and~~ upto fifty years. The highest percentage was in the age group 15-20 years with 16.67% and next highest between the age twentyone to twentyfive with 12.82%. No member indicated a first attraction to politics after the age of fifty one. The age at which 47.44% members <sup>were</sup> first attracted to politics was unknown. Whereas 6.41% of the members took part in politics at <sup>an</sup> ~~the~~ age below fifteen years. The following table gives age distribution at which politics became <sup>an</sup> ~~at~~ attraction:-



Table No: V/9

Sl.No.	Age	No. of persons	Percentage
1	Below 15	5	6.41
2	15-20	13	16.17
3	21-25	10	12.82
4	26-30	6	7.69
5	31-35	1	1.28
6	36-40	2	2.56
7	41-45	3	3.85
8	46-50	1	1.28
9	After 50	-	-
10	Unknown	37	47.44
Total:-		78	100.00

### OCCUPATION OF THE MEMBERS.

3.8.7 "A man's occupation naturally provides a basis for his social stratification and is perhaps the single most important factor which determines his values and attitudes, though occupation alone <sup>6</sup> can not exclusively determine a man's social status"

Occupation is not as clearly defined in India as it is in more industrialised societies. It is not unusual for an Indian, particularly if he is educated, to have more than one occupation. It is realised that different occupations enjoy a different degree of prestige related to one another. Furthermore, the amount of emphasis given to <sup>8</sup> an occupation seems to be less for it "defines the individual to a less <sup>ch</sup> extent than in an industrial society."

6. Dr. Singh Balbir - The working of Jammu and Kashmir Legislative Assembly (1967-72) - May 1973 P.77  
Doctoral Thesis submitted to University of Jammu.  
Unpublished.

7. Dr. Shrader, Lawrence Roy. "Politics in Rajasthan" Dissertation submitted in partial stratification of the requirement for the degree of Doctor of Philosophy in Political Science in the Graduate Division of the University of California Berkeley. P.133  
(Unpublished).

Satisfaction



Family, caste and religion play a more important role in defining the individual and these factors tend to lessen the significance of the particular occupation of the individual.

However, with ~~the~~ reference to occupation or profession the highest percentage 17.96% of the members mentioned politics as their profession. The next highest ~~16.66~~ 16.67% members belonged to legal profession. Agriculture ranged next with 15.38% followed by business with 14.10% . 7.69% of members mentioned social service as their occupation. There was no indication <sup>as to</sup> what social service include <sup>d, and</sup> whether it was <sup>a</sup> voluntary or paid social service. Next followed ~~by~~ Government <sup>servants</sup> ~~service~~ other than teachers and ~~and~~ clerks; Teachers/professors and Co-operative Organizations; Military; Journalists <sup>to</sup> and Clerks; and House-<sup>wives</sup> ~~wives~~ wife with 5.13%, 2.56% and 1.28%. The occupation of the 3.85% of the members were un-known. The complete break<sup>up</sup>down on occupational and professional status is as follows:-

Table No:VI (10)

Sl.No:	Occupation	No. of persons:	Percentage
1.	Agriculture	12	15.38
2.	Legal Practice	13	16.67
3.	Government Service <sup>acts</sup> other than Teachers and clerks <del>given</del> <sup>separate</sup>	4	5.13
4.	Business	11	14.10
5.	Military	2	2.56
6.	Teacher/Professor	4	5.13
7.	Social Service	6	7.69
8.	Journalism	2	2.56
9.	House-wife	1	1.28
10.	Clerks	2	2.56
11.	Politics	14	17.96
12.	Co-operative Organisation	4	5.13
13.	Unknown	3	3.85
Total		78	100.00



3.4.2

ANNUAL INCOME OF MEMBERS BEFORE ENTERING CONSEMBLY.

It was rather difficult to ascertain the income status of the members as most of the respondent were over cautious while ~~answer~~ answering the question pertaining to their annual income before they entered <sup>the</sup> Constituent Assembly. Moreover there was no source available to verify the figures. Although the real purpose for such information was made clear to them, yet they <sup>fear</sup> ~~were fearing~~ that the facts about their annual income might <sup>become known to the</sup> ~~not be passed on to~~ Income Tax Department. Therefore, the tendency <sup>dency</sup> among the respondents might <sup>have been</sup> ~~be~~ towards under-statement. Anyhow the average income of the members ranged from below Rs.5000/- upto ~~a range of Rs. 4000x~~ 40,000/- . The annual income of the majority of the members i.e. 32.05% was below Rs.5000/-. The annual income of next highest percentage of members i.e. 8.97% ranged between Rs.11,000/- to 20,000/-. The annual ~~xxx~~ income of 6.41% of members was between the ~~range of Rs.5000/- to~~ <sup>and</sup> Rs.10,000/-whereas the annual income of 1.23% of the members was between ~~the range of Rs.21,000/- to~~ <sup>and</sup> 40,000/-. 2.56% of the members were dependant <sup>e</sup> upon either ~~on their~~ parents or husbands. whereas the annual income of 48.73% of the members was unknown. The complete detailed annual income distribution is as under:-

Table VII. (11)

Sl.No:	Income	No. of members	Percentage
1	Below Rs.5,000	25	32.05
2	Rs.5,000 - Rs. 10,000	5	6.41
3	Rs.11,000 - Rs. 20,000	7	8.97
4	Rs.21,000 - Rs. 40,000	1	1.23
5	Above Rs.40,000	-	-
6	Dependent upon parents or husbands.	2	2.56
7	Unknown	38	48.73
Total: -		78	100.00



3.8.9

NO. OF TIMES TO JAIL ON POLITICAL GROUNDS.

The question <sup>pertaining to the</sup> ~~of~~ number of times sentenced to Jail on political grounds was answered by all the members who were interviewed. 10.26% of the members <sup>had been</sup> ~~were~~ sentenced ~~for~~ at least once. 6.41% of the members <sup>had been</sup> ~~were~~ sentenced twice, and same percentage ~~for~~ thrice. 2.56% of the members <sup>had been</sup> ~~were~~ sentenced ~~for~~ four times whereas 1.28% of the members ~~for~~ five times. 3.85% of the members were sentenced for more than five times. The warrants were issued against 5.13% of the members but they <sup>as they</sup> ~~could not be arrested, and went under ground.~~ A great percentage i.e. 43.59% of the members were <sup>not</sup> ~~arrested~~ sentenced ~~for~~ arrested. The position of ~~the~~ 20.51% of the members <sup>was</sup> ~~were~~ not known. The tabulation of the information in this regards is as under:-

Table No: VIII <sup>12</sup>

Sl.No.:	No. of times sentenced	No. of persons:	Percent- age.
1.	Once	8	10.26
2.	Twice	5	6.41
3.	Thrice	5	6.41
4.	Four times	2	2.56
5.	Five times	1	1.28
6.	More than five times	3	3.85
7.	- NIL	34	43.59
8.	<del>Warrants issued but could not be arrested.</del> <sup>warrant</sup> <del>evaded</del>	4	5.13
9.	Unknown	16	20.51
Total:-		78	100.00

3. Ibid.

9. Mehta Shiv Rattan - Emerging pattern of Rural leadership. Wiley Eastern Private Limited New Delhi 1944 P.30.

10. Dr. Shrader, Lawrence Loy. "Politics in Rajasthan" op.cit. P.133  
Dissertation submitted in partial satisfaction of the requirement for the degree of Doctor of Philosophy in Political Science in the Graduate Division of the University of California Berkeley. P.133 (Unpublished).

Satisfaction



3.4.10

PREVIOUS LEGISLATIVE EXPERIENCE.

The previous legislative experience of the members which was a decisive <sup>factor</sup> in persuading the maker of the Constitution to choose this form rather than <sup>any</sup> other, was of a special significance. The majority of the members i.e. 66.67% had no legislative experience at all. 5.13% of the members <sup>had</sup> remained the members of first Praja Sabha and 2.56% as the members of the second Praja Sabha. The same percentage of the members <sup>had</sup> ~~were~~ also <sup>remained</sup> the members of first Praja Sabha ~~as~~ <sup>and</sup> Indian Constituent Assembly. ~~2.56%~~ <sup>only</sup> 2.56% of the members <sup>had</sup> ~~were~~ remained ~~the~~ members of the Constituent Assembly of India. 1.28% members were the members <sup>or had</sup> ~~of~~ <sup>were</sup> remained the members of first and second Praja Sabha. The legislative experience of 19.33% of the members ~~were~~ was unknown.

The complete breakdown <sup>up</sup> ~~down~~ of previous legislative experience

of members is as under:-

Table NO: I X. (13)

Sl. No:	Name of Assemblies	No. of persons	Percentage
1	First Praja Sabha	4	<del>5.30</del> 5.13
2.	Second praja sabha	2	2.56
3.	Indian Constituent Assembly	2	2.56
4.	First Praja Sabha and Constituent Assembly of India	2	2.56
5.	First and Second Praja Sabhas	1	<del>1.52</del> 1.28
6.	No experience	52	66.67
7.	Unknown	15	<del>19.23</del> 19.24
Total:-		78	100.00

3.4.11

PREVIOUS ADMINISTRATIVE EXPERIENCE.

The large number of percentage of the members of the Constituent Assembly had either no administrative experience <sup>or</sup> ~~of~~ their administrative experience is unknown. As much as

11. Jones, W.H. Morris "Parliament in India" Longmans, Green and Co. London, New York Toronto. 1957 P.117.



7.69% members had served as Ministers in the post independent Government. 1.28% of members had served as Deputy Ministers as well as Director ~~Co-operative Bank~~. 5.13% members had served as Secretary or Assistant Secretary to post-independent Government. 1.25% members had served as Relief Commissioner. <sup>many</sup> As ~~most~~ <sup>as</sup> 20.51% of members had worked as Chairman or Vice Chairman, ~~or~~ Director <sup>ies</sup> or Secretary <sup>ies</sup> or Assistant Secretary of Co-operative Stores ~~or~~ Co-operative Bank or Debt Conciliation Commission. 1.25% members had the experience of Military Administration and 3.85% members had worked as Liasion Officers or T.S.O or Civil Officers. The following table will give the Administrative experience of the members:-

Table X. (14)

Sl.No:	Administrative position on which worked.	No. of persons	Percentage
1.	Minister	6	7.69
2.	Deputy Minister and Director Co-operative Bank	1	1.28
3.	Secretary, Assistant Secretary to Government.	4	5.13
4.	Relief Commissioner	1	1.28
5.	Chairman or Vice Chairman or Director, Secretary or Assistant Secretary of Co-operative Stores, Bank and Debt Conciliation.	16	20.51
6.	Military Administration	1	1.28
7.	Liasion Officer/T.S.O/civil Officer.	3	3.85
8.	Unknown or no experience	46	58.98
		<u>&amp;&amp;</u>	
	Total	98	100.00

3.4.12

#### LOCAL GOVERNMENT EXPERIENCE.

The extent to which Local Government experience found its way into Constituent Assembly is perhaps less important but still of interest. Men like Lord Rippon were convinced of the value of local Government as a training ground for politicians.

12, Ibid. P.118.



As large as 53.85% of members had no local Government experience. 21.79 persons of members ~~were~~<sup>had</sup> remained either the members of the Municipalities or Town Area Committees. 12.82% members had remained the members of the Panchayats. But the local/<sup>Government</sup> experience of 11.54% of the members was unknown. The complete break~~down~~<sup>up</sup> of Local Government experience of the members is as under:-

Table No: M. 15

Sl.No:	Name of the Institution : of Local Government.	No. of persons :	Percentage
1.	Municipalities or Town Area Committees.	17	21.79
2.	Panchayats	10	12.82
3.	Nil	42	53.85
4.	Unknown	9	11.54
		78	100.00



## OBSERVATIONS

2. 13

The following implications stand out in this review of the sociological analysis of the members of Jammu and Kashmir's Constituent Assembly:-

1. The Muslims ~~represent~~ <sup>form</sup> the largest communal group represented in the ~~Consemlly~~ <sup>Assembly</sup>. This is as it should be since they represent the largest percentage of the population. There is also a close <sup>a</sup> correlation between the percentage of Muslims in the population and their ~~percentage~~ <sup>percentage</sup> in the Constituent Assembly.
2. The tendency was to over-represent majority, and under-represent minority groups. From the females, which constituted about half of the population, <sup>1</sup> were drawn only two women. This is 2.56 % of the total membership of the ~~Consemlly~~ <sup>Assembly</sup>. One of them was house-wife and the other <sup>a</sup> ~~house~~ wife as well as social worker.
3. The highest percentage of members held University degrees. The next highest percentage of the ~~members were~~ <sup>members was of</sup> law graduates. This was quite significant especially when there ~~was~~ <sup>were</sup> no such post-graduate educational facilities within the State and when the cost of such education outside <sup>the</sup> State was very high. ~~The~~ Next came the categories of members with primary-middle education and College education. There was some percentage of members who could simply read and write.
4. The largest number of members ~~was~~ <sup>was</sup> in the age group <sup>29</sup> 31-35 years. <sup>This</sup> ~~This~~ signifies that youth were more represented <sup>in</sup> ~~in~~ <sup>in</sup> the Constituent Assembly than ~~any~~ other groups. Thirty-three members were between 41-~~xx~~ 60 years and hence were those who had witnessed not only suppression of autocratic rulers but also the rise of political consciousness and of nationalism, struggle for freedom and even post-independent days.

1. Census of India Vol. VI Jammu & Kashmir Part II-A ~~xxxx~~ pp.78 table A-II Female population of Jammu & Kashmir State was 1,517,025 in 1951-

2. According to Digest of Statistics of J&K 1956 Government of J&K Planning Deptt. Srinagar Oct. 1957 pp.17 the ~~group~~ age group-wise population in 1951 was as follows

Age group.	persons in thousands.
30-35	225
35-40	
40-45	135
45-50	116
50-55	84
55-60	



Age is considered an important criterion for upward mobility. Whether or not age brings with it matured political skill is still point of controversy.

5. The largest number of members <sup>had been</sup> ~~were~~ attracted to politics between the age group 15-20 years. <sup>thus enabling us to</sup> ~~assuming~~ that these persons <sup>had</sup> ~~had~~ spent <sup>the</sup> ~~round~~ about 16 years in ~~the~~ fighting for independence years. Most of members remained <sup>the</sup> ~~active~~ in politics since 1931, when the seed <sup>the</sup> ~~for~~ struggle for freedom was sowed in the State.

6. The largest number of members of <sup>the</sup> ~~Constituent~~ Assembly were having politics as their occupation. The next largest <sup>group</sup> ~~was~~ <sup>was</sup> the legal profession. It was not surprising that agriculture <sup>was the occupation of the third group</sup> ~~was the next largest occupation of the members~~ since J&K is principally an agricultural area.

7. With reference to annual income/ the largest number of members represented an annual income group of below Rs.5000/-. This was very low but it was not out of proportion to general income level of the State. The average national income per capita was Rs.188.41/- for the year of 1950-51.

8. <sup>30.77%</sup> ~~24~~ members <sup>had been</sup> ~~were~~ sentenced to jail for different terms for political activities. Warrants <sup>had been</sup> ~~were~~ issued against <sup>4</sup> ~~other~~ members but they could not be apprehended. This would seem to indicate that sufficient representation <sup>had been</sup> ~~was~~ given to those who took part in the struggle for freedom in the State.

9. The majority of <sup>the</sup> ~~members~~ <sup>xx</sup> had neither previous legislative experience nor administrative or local Government experience. <sup>14.10%</sup> ~~Eleven~~ members admitted having legislative experience - <sup>5.13%</sup> ~~4~~ <sup>other were from</sup> ~~were the members~~ of Constituent <sup>Assembly</sup> of India. <sup>41.2%</sup> ~~32~~ admitted ~~to~~ having administrative experience - <sup>8.77%</sup> ~~7~~ <sup>of them had been</sup> ~~were~~ ministers and one Deputy minister in the Emergency.

3. 25 years of progress. Deptt. of Information J&K Aug.1972 pp.88

4. According to J&K Constituent Assembly who's who the four members representing the State in ~~xx~~ Indian Constituent Assembly were Sheikh Moh'd Abdullah, Mirza M.A. Beg, Moti Ram ~~xx~~ Baigra and Maulana Moh'd Syed Masu'di. But A.G.Noorani in his article "Kashmir in the name of Democracy" published in the Illustrated Weekly of India dated Mar.5, 1975 at pp.46 mentioned that Sheikh Moh'd Abdullah, Mirza M.A. Beg, Maulana ~~Masud~~ Masu'di and Chaudhary, Moh'd Shaffi joined the Constituent Assembly (of India) as Kashmir's representatives.



7. 43%

Administration formed in 1947. <sup>51</sup> members admitted ~~to~~ <sup>having</sup> experience of local Government.

While commenting on the nature of the Constituent Assembly the Organiser Weekly from New Delhi in its article <sup>12</sup> "Inside Kashmir" mentioned: Most of the members of the Constituent Assembly being little educated ~~can~~ <sup>could</sup> speak neither Hindi nor Urdu. They would therefore speak <sup>in</sup> ~~to~~ in Kashmiri or Dogri. A speech in Kashmiri would be all Greek ~~for~~ <sup>to</sup> the Dogras ~~members~~ from Jammu and a speech in Dogri by the members from Jammu would be all Latin for Kashmiris. The Daily Statesman New Delhi <sup>5</sup> gave a befitting reply to these charges in one of its articles <sup>13</sup> "Future Constitution of Kashmir". <sup>14</sup> It would not only be <sup>unfair</sup> but totally incorrect to underrate the calibre and collective ability of the 75 members of the Constituent Assembly. Nearly one-third of them are qualified lawyers ~~and~~ <sup>and</sup> quite a few having successful practice in local courts. Practically, ~~xxx~~ although differing in dress and occupation, <sup>they</sup> seem to have a lively sense of their responsibility, <sup>though</sup> far from perfect yet in procedural matters, most of them speak well. <sup>15</sup>

One of the most responsible positions in regard to the work of the Constituent Assembly is held by the Constitutional Adviser Mr. M.A. Shahmiri who, like Sir B.N. Rau, during the discussion on the Indian Constitution, is not a member of the House. He is a Judge of the State High Court but has previously <sup>6</sup> held important Judicial and Executive appointments.

Sheikh Abdullah's greatest single asset was the strength of the J&K N.C, which represented a unity of purpose and an organizational competence surpassed by few political parties in the East. Excellent leadership at the top and a simple, workable ideology were mainly responsible for that solidarity. Two additional, though less important, reasons were the prestige <sup>and</sup> value <sup>16</sup>

5. Organiser Vol. V 5th Nov. 1951 No. 12.

6. The Statesman 8-11-1951.



of Mr. Nehru's friendship for the State Premier and a common bond of bitterness against the Muslim League in Pakistan.

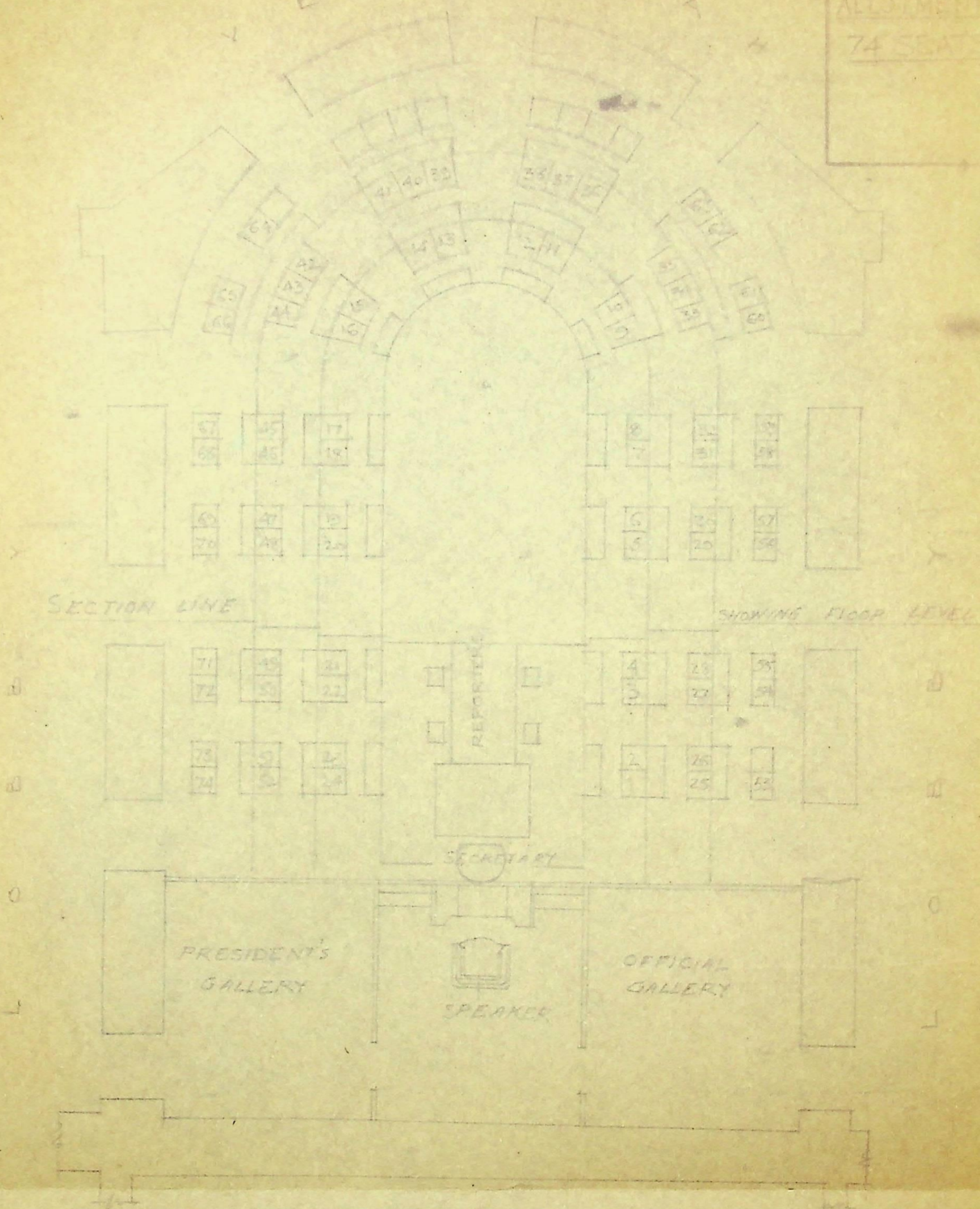
Team work among the senior leaders was impressive. So far ~~dis~~agreement, if ~~any~~ any, had arisen largely over emphasis or details rather than over substance. In no case was a ruling given by Sheikh Abdullah known to have been seriously challenged or disobeyed. Discipline <sup>in</sup> in the party's ranks, especially at the top remained as strong ~~as~~ a principle as the ideology itself. The relationship between Sheikh Abdullah and his next in Command, Bakshi Ghulam Mohammad, was remarkable when it was realized that in temperament and partly in upbringing - the two were far from identical. While Sheikh Abdullah was primarily an idealist, who would spurn any deviation from rules, Bakshi Ghulam Mohammad had a deep sense <sup>of</sup> practical politics.

This difference of approach was reflected in their views on administration and in their relations to human beings. When ~~the~~ Sheikh Abdullah <sup>chose</sup> ~~chose~~ to be lofty and some what aloof, his Deputy settled an ~~xxx~~ argument without ~~a~~ fuss by quick decisive action.

Of the other leaders, a high place of honour was reserved for the party General Secretary, Maulana Mohammad Sayeed Masoodi, who <sup>though just</sup> ~~for~~ one day, <sup>had</sup> acted as President of the State Constituent Assembly. At the extreme left of the party were Mr. G.M. Sadiq, the permanent President of the Assembly, and Mr. D.P. Dhar, formerly <sup>a</sup> Deputy Home Minister, and ~~among~~ the strongest Hindu supporters of Sheikh Abdullah. Mirza Afzal Beg, the Revenue Minister, was <sup>among</sup> the six important members of the Senior ~~xxx~~ team.



PLAN SHOWING  
ALLOTMENT OF  
74 SEATS IN





Plan showing allotment of 74 seats in  
Constituent Assembly. 1951.

<u>Seat No.</u>	<u>Name</u>
1.	Hon'ble Sheikh Moh'd Abdullah
2.	Hon'ble Bakhshi Ghulam Mohd.
3.	Hon'ble Mirza Moh'd Afzal Beg.
4.	Hon'ble Shri Girdhari Lal Dogra.
5.	Hon'ble Shri Sham Lal Saraf.
6.	Hon'ble Kh. Ghulam Mohiuddin Hamdani.
7.	Hon'ble Mirza Ghulam Moh'd Beg.
8.	Hon'ble Kh. Abdul Gani Trali.
9.	Hon'ble S. Kulbir Singh.
10.	Hon'ble Syed Alludin Glani.
11.	Hon'ble <del>Kak</del> Shrimati Ishwar Devi Maini.
12.	Hon'ble Shrimati Ram Devi.
13.	Hon'ble Mahasha Nahar Singh.
14.	Hon'ble Kh. Abdul Kabir Khan.
15.	Hon'ble Shri Kishen dev Sethi.
16.	Hon'ble Kh. Noor Din Dar.
17.	Hon'ble Shri Ram Chand Khajuria.
18.	Hon'ble Mirwaz Ghulam Nabi Hamdani.
19.	Hon'ble Shri Kushak Bakula.
20.	Hon'ble Syed Ibrahim Shah.
21.	Hon'ble Shri Ram Piara Saraf.
22.	Hon'ble Kh. Ghulam Rasool <del>Kar</del> Kar.
23.	Hon'ble Mr. Asad Ullah Mir.
24.	Hon'ble Shri Moti Ram Baigra.
25.	Hon'ble Kh. Mir Qasim.
26.	Hon'ble Shri D.P. Dhar.
27.	Hon'ble Maj. Piar Singh.
28.	Hon'ble Kh. Mubarak Shah.
29.	Hon'ble Kh. Abdul Gani Goni.
30.	Hon'ble Bakhshi Abdul Rashid.
31.	Hon'ble Shri Hem Raj.



Seat No.Name

32. Hon'ble Moulvi Jamit Ali Shah.
33. Hon'ble Wazir Ram Saran Dass.
34. Hon'ble Kh. Noor-ud-Din Sufi.
35. Hon'ble Shri Mansukh Rai.
36. Hon'ble Kh. Mohd. Anwar Shah.
37. Hon'ble Shri Sagar Singh.
38. Hon'ble Shri Janki Nath Kakroo.
39. Hon'ble Kh. Jamal-ud-Din.
40. Hon'ble Kh. Sona Ullah Sheikh.
41. Hon'ble Kh. Ghulam Qadir Masala.
42. Hon'ble Mian Nizam-ud-Din.
43. Hon'ble Shri Mahant Rai.
44. Hon'ble Kh. Ghulam Moh'd Butt (Jalib)
45. Hon'ble Kh. Ghulam Hassan Malik.
46. Hon'ble Kh. Ghulam Hassan Khan.
47. Hon'ble Kh. Ghulam Ahmad Dew.
48. Hon'ble S. Chela Singh.
49. Hon'ble Sheikh Moh'd Akbar.
50. Hon'ble Shri Ram Lal.
51. Hon'ble Hakim Habib Ullah.
52. Hon'ble Kotwal Chuni Lal.
53. Hon'ble <sup>S.</sup> Harbans Singh Azad.
54. Hon'ble Shri Bhagat Ram Sharma.
55. Hon'ble Kh. Ayub Khan.
56. Hon'ble Pirzada Ghulam Gilani.
57. Hon'ble Raja Moh'd Afzal Khan.
58. Hon'ble Kh. Ghula Rasool Karipak.
59. Hon'ble Aga Syed Ali Shah.
60. Hon'ble Pir Moh'd Maqbool Shah.
61. Hon'ble Kh. Ghulam Rasool Sheikh.
62. Hon'ble Kh. Ghulam Nabi Wani. (Lalsab)
63. Hon'ble Kh. Ghulam Nabi Wani Darihgam.



<u>Sl. No.</u>	<u>Name</u>
64.	Hon'ble Kh. Ghulam Mohi-ud-Din Khan.
65.	Hon'ble <del>xxxxx</del> Pir Ghulam Moh'd Masoodi.
66.	Hon'ble Kh. Ghulam Hassan Bha Butt.
67.	Hon'ble Shri Ram Rakha Mal.
68.	Hon'ble Master Ghulam Ahmad.
69.	Hon'ble Kh. Ghulam Ahmad Mir.
70.	Hon'ble Bhatgat Chajju Ram.
71.	Hon'ble Kh. Abdul Khaliq.
72.	Hon'ble Syed Abdul Qadoos.
73.	Hon'ble Kh. Abdul Aziz Shawl.
74.	Hon'ble Kh. Ghulam <del>Rasul</del> Rasul (Amirakadal).
<del>75</del>	( The 75 number was Kh. Ghulam Moh'd Sadiq The President of the Constituent Assembly and occupied Speaker's Seat).



FILE No \_\_\_\_\_

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JAMMU

STATE ADMINISTRATION IN JAMMU AND  
KASHMIR

FILE NO: 63

State Administration in Jammu and Kashmir  
(Donated by Dr. Vidya Bhushan)

OFFICE FILE

*Shanker*



STATE ADMINISTRATION IN JAMMU AND KASHMIR

\* Dr. Vidhya Bhushan\*

Between the snow-adorned barrier of the Himalayas and the earth-coloured and sun-scorched plains of the Punjab live four million Kashmiris.<sup>1</sup> This part of the country, Jammu and Kashmir state, which is generally known as Kashmir state; covers an area of 84,471 sq. miles (2,22,800 sq. km) and is situated in the extreme north between Latitude  $32^{\circ} 32'.15''$  and  $37^{\circ} 5'$  North and Longitude  $72^{\circ} 35'$  and  $80^{\circ} 20'$  East<sup>2</sup>. The physiography of Kashmir in relation to peninsula of India is economically most important, in as much as the great reservoirs, from which is drawn the water that fertilizes the vast plains of the land of five rivers, are contained herein. Here are born infant streams which feed the Indus, the Jhelum, the Chenab the Ravi and to great extent the Sutlej also.<sup>3</sup>

It is not merely geographical expression in the North-west of the vast sub-continent of India, famed for its beauty and natural wealth, but Kashmir is a land strategically situated and a connecting link for many great empires. Its borders touching, as they do, the territories of Russia, China, India, Pakistan, Tibet and Afghanistan, have an international significance.<sup>4</sup> Being a playground of Asia, Kashmir has been the victim of foreign invasion and intrigues for centuries. The people had been mercilessly exploited by their federal and imperialist masters.

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It occupies a strategic position from military standpoint and that of foreign affairs. Planes based on the soil of Kashmir can be used for bombing any area in Asia."<sup>5</sup> Nations interested in 'Big Power' struggle can see Kashmir primarily as the pivotal centre of military strategy in this part of the world."<sup>6</sup> This is why it had been a constant source of irritation between Dogra Rulers and the Govt. of India before 1947 and India and Pakistan since, 1947. It has become a pawn in the game of International politics. Thus for instance it has given rise to the fast developing collaboration of Pakistan and China, on one hand, and the Pak collaboration in the global plans of American Policy and military strategy on the other.

Kashmir being comprised of three main regions - Jammu, Kashmir and Ladakh, is a multilingual, multicultural (with three dominant languages - Dogri, Kashmiri and Ladakhi) and is also the home of various races. The Jammu province, with an area more than double of Kashmir Province, is the home of the Dogras - a hardy people divided into several castes and sects, both Hindu and Muslims, belonging to the same race.<sup>8</sup> They speak dogri language - a mixture of Sanskrit, Punjabi and Persian words, deriving its own from the Indi-Aryan branch of Sanskrit.<sup>9</sup> The people of Kashmir valley, being an ancient race with complexions varying from olive to a ruddy and fair hue, are full of fun and fond of amusement. The over-whelming majority of the people profess Muslim- religion, which was first introduced in the Thirteenth century and established its hold in 18th century. They speak Kashmiri language.



Further to the east is the land of Ladakh or 'Little

Tibet<sup>10</sup>'. Its~~six~~ people are a mixture of Mongolian and Aryan races and are cheerful, wilful, and not quarrelsome unless under narcotics like 'Chang'. Simplicity and clumsiness are in a measure their chief characteristics<sup>11</sup>. They are Buddhists, the followers of the Dalai Lama<sup>a</sup> of Tibet and speak Ladakhi language. In short, geographically, demographically culturally, linguistically, racially and ethnically the Kashmir state is not a homogenous<sup>2</sup> but heterogeneous unit. 4

The struggle for freedom and democratisation of the administration in this state goes back to the year 1930-31<sup>12</sup>. It had its origin in the widespread discontentment among the Muslim masses who constituted 78 % of the total population of the state and 49 % of the population in the Kashmir Valley<sup>13</sup>, but had very inadequate representation in the state services as well as in the economic and industrial life of the state<sup>14</sup>. The bulk of the Muslim Population were tillers, labourers and artisans-classes which were an excellent target of exploitation by the richer sections of the society<sup>15</sup>. Agrarian discontent and paucity of employment opportunities were thus the motivating force for the Muslim masses to agitate against the Dogra regime in the state. The process of presentation of demands and their half-hearted consideration by the Government continued for some years, but without any tangible<sup>results</sup> coming out of it. It was in 1930 that a new organisation called the Reading Room party was formed by a few Muslim graduates for



discussing the problems of Muslim masses. Meanwhile  
 sketch Sheikh Mohd. Abdulla, with post-graduate degree in  
 Chemistry from M.U. Aligarh, and who was appointed as a  
 teacher<sup>17</sup> left his job after a few months and in collaboration  
 with his friends founded the Muslim Conference of which he  
 himself became President.<sup>18</sup> Sheikh Abdulla's nationalist  
 outlook, his desire to fight for the entire state's freedom  
 and people's fundamental right and to get the cooperation of  
 all the progressive forces in the state<sup>19</sup>. The  
 Muslim Conference in 1932 was converted into Nation Conference  
 in 1939. The National Conference adopted a programme of  
 building up New Kashmir in 1944.<sup>20</sup> Sheikh declared that the  
 future and independence of India is inextricably linked with  
 the future and independence of J&K state. The National  
 Conference, therefore, stated 'Quit Kashmir' Movement in  
 May, 1946.<sup>21</sup> This movement ended with the withdrawal of the  
 British power from the sub-continent and transfer of power.  
 Sheikh Abdulla was then appointed as the Head of interim Govt.  
 in 1948.<sup>22</sup> Art 370 of the Indian constitution conferred a  
 special status on the state. Thus the Kashmir state was the  
 only state of the Indian Union which got the right to  
 frame its own constitution. The Jammu and Kashmir's  
 Constitution was therefore, framed by its own assembly and  
 enforced on 26th January, 1957.<sup>23</sup>

#### Governor:

The doctrine of separation of powers that the  
 executive, legislature and Judicial functions should each be  
 vested in a separate and distinct body of individual - which



was adopted and put into practice by the fathers of the American Constitution, is difficult to observe in practice. In most of the modern Constitutions, therefore, an attempt is made to separate these functions in so far as it can be done without prejudice to administrative efficiency. In almost all Constitutional Acts, promulgated from time to time, in 100 yrs, of the reign of Dogra Dynasty in Kashmir, all powers were vested in the Ruler. But in the new Jammu and Kashmir Constitution of 1957, these powers have been separated.<sup>24</sup>

The executive power may be defined as "the authority within the state which administers the law, carries on the business of Govt., and maintains order within and security from without the state."<sup>25</sup> The Supreme Court of India, while referring to what the Executive power of the state connotes, pointed out that it is the residue of governmental functions that remains after legislative and judicial functions are taken away, subject to the course of the provision, of the constitution of India.<sup>26</sup>

The Constitution of 1957 envisaged a parliamentary government for the state and the executive powers of the state which extended to all matters not transferred to the Union, were vested in the Head of the State called Sadar-i-Rayasat.<sup>27</sup>

The Constitutional position of the Sadar-i-Rayasat was largely the same as that of President of India except that the President was not described as the Head of the State. The framers of the Constitution of Kashmir outlined the position of Sadar-i-Rayasat on the Indian and Irish models



viz. that of an elected Head of the state, who took precedence over all other persons in the state and who was to act on the advice of his <sup>28</sup> Council of Ministers. The Head of the State should be a permanent Resident of the state and had to be indirectly elected by the Legislature. However, by the Constitution of Jammu & Kashmir sixth Amendment Act 1965, 'Sadar-i-Riyasa-t' has been substituted by the 'Governor', who will be appointed by the President of India, for five years and who holds office during the <sup>29</sup> ~~please~~ pleasure of the President. The Governor is obliged to exercise his executive functions on the advice of Council of Ministers except in case of appointment of Ministers, Dy-ministers, and issuing the proclamation of the breakdown of constitutional machinery in the state and thus assuming himself the executive and legislative functions of the state. <sup>30</sup> So far the other states of the Indian polity, this power of issuing proclamation of breakdown of constitution machinery is ~~rest~~ not in the Governor, but with the President of India, <sup>31</sup> who no doubt acts on the advice of his council of ~~Minist~~ Ministers. The Governor has the power to grant pardons, reprieves, respites or remission of punishment under the state Constitution extends to offences under the laws to which the executive powers of the state extends. He may also commute a death sentence for the offences to which the executive power of the state extends. <sup>32</sup> The Constitution of India does not sufficiently guard against the president becoming a dictator, whereas in case of in J&K it would seem that the limitation on Governor's power Section 35(2) and 92(6) of the Kashmir's Constitution reduce the possibility of him becoming a <sup>33</sup> dictator to a minimum.

<sup>34</sup> The Governor summons and prologues the either House and can dissolve - the Assembly.



### Chief Minister and the Council of Ministers:

The Political executive (i.e. Council of Ministers) is the main executive organ of the govt. and its stability is essential for the efficient running of the administration.

The political executive of the state is based on the relevant provisions of the Jammu and Kashmir's constitution 1957 - <sup>Section</sup> Articles 35 to 41. The Council of Ministers headed by a Chief Minister, is assigned the task under the Constitution to 'aid advise the Governor' <sup>35</sup> under <sup>Sec</sup> Art. 36, the Chief Minister is to be appointed by the Governor who, on the advice of the <sup>former</sup> ~~former~~ is to appoint other ministers and under <sup>Sec.</sup> Art. 38 might appoint Dy-Chief Minister. As the Constitution envisaged a Parliamentary Govt. for the state, the Governor will be obliged to appoint the leader of the majority party in the house, as Chief Minister. The discretionary powers of the Governor may not ~~been~~ important if there is a party in the legislature with clear cut majority and whose leader enjoys its confidence. But it becomes important in a situation where there is no such party and a coalition Govt. is essential. In such case the leader of the party with the largest number of seats is invited to explore the possibility of forming <sup>ing</sup> a Govt. Constitution, however, does not provide as to how Chief Minister will choose his colleague. But because of rule of collective responsibility the Chief Minister will make his Council of Ministers as broadly representative as possible. The ministers are collectively responsible <sup>36</sup> to the Legislative Assembly. The Chief Minister and the ministers must be members of the Legislature and if they are not at the time of appointment they should get elected <sup>37</sup> within 6 months. It will then be for the Governor to consider



what coalitions are possible and choose that most likely to endure and who is to be appointed as Chief Minister. The Governor is to follow the British ~~Con~~ Convention that the "Sovereign should not to be interested in any particular party but should maintain his impartial position.

The Chief Minister is to ~~required~~<sup>e</sup> to Communicate all decisions of the Council of Ministers about administration and proposed Legislation to the Governor who can also call for any information on these subjects. The Governor may cause a matter decided by a minister to be considered by the whole council.<sup>38</sup> This would ensure the collective responsibility and solidarity of the Council of Minister and provide a safe-guard against departmental decisions prejudicial to others departments or general governmental policy. This<sup>39</sup> is also safe-guard against any hasty and arbitrary decision of an individual minister. The ministers hold office<sup>e</sup> at the pleasure of the Governor.<sup>40</sup> If the necessity arises, Governor may dismiss Dy. the ministers and/ministers because the power to appoint presumably includes the power to dismiss.<sup>41</sup> But this power, according to convenience, is exercised by the Governor on the advice of the Chief Minister.<sup>42</sup> The normal methods of removal of a ministry or of a minister is a vote of non-confidence against them in the Legislative Assembly, when a minister is undesirable but commands the support of the House, the power of dismissal by the Governor may be used in such a case. The Constitution, however, does not specifically mentioned ~~that~~ whether the council of ministers can be dissolved by the Governor on the grounds of inefficiency or misconduct. It is <sup>e</sup>per<sub>h</sub>sumed, since the governor is obliged to ensure the stability



of the administration, he may, if he thinks it necessary, dismiss the cabinet as a whole. But this authority will be rarely exercised as happened on 8th August, 1953, when the then *Sadr-i-Riyasat* dismissed Sheikh Mohd. Abdullah's first Ministry.

The Chief Minister has, therefore, a complex role to play. He is to act as a leader of the people of the state as a whole, as a leader of a party, as a person relating to natural goals, and as an administrator holding the reins of the State's administrative machinery. To date Jammu and Kashmir has had <sup>eight</sup> seven Chief Ministers in post-independence period. They are, Sheikh Mohd, Abdullah, Bakshi Ghulam Mohd. Shamus-uddin, G.M. Sadiq, Mir. Qasim (Sheikh Abdullah <sup>second</sup> several time), Faroque Abdullah and G.M. Shah. Sheikh Abdullah's first ministry tried to maintain the unity of the different regions of the state and to build the Kashmir's Constitutional Structure on the pillars of maximum autonomy.<sup>43</sup> His ministry ultimately failed to achieve its goal because of Constitutional crisis of 1953 which was caused by the motivational variations arising from political consideration and the failure of leadership at various levels to reconcile the various claims and aspirations.<sup>44</sup> Bakshi, G.M. followed the policy of limited Autonomy with partial and cautious integration of the state with the Indian Union one one side and to remove the regional disparities between different regions of ~~xxxxxx~~ the state through various developmental programmes on the other.<sup>45</sup> Shamus-Uddins Cabinet had a very short spell and could not get time to pursue an independent policy of its own.



Sadiq, being progressive in outlook followed a policy of fuller and progressive integration of the state with the Indian Union.<sup>46</sup> Much ~~impr~~ impressed by the radical changes at the centre such as adoption of the socialistic patterns of society by the Congress as its goal at the Avadhi session, and the progressive policies<sup>47</sup> of the Union Govt., regarding privy purses, Bank Nationalization, Sadiq regarded Art. 370 as a tunnel or a bridge between the state with the Union.~~as~~ But at the fage end of his political career he followed a policy of liberalisation and placating Sheikh Abdullah and his followers i.e., greater <sup>autonomists</sup> ~~autonomy~~<sup>47</sup> forces in the state.

Mir Qasim, although initially a critic of Sadiq's policy of liberalism, began to realise the necessity and the validity of the policy. As a Chief Minister, he therefore, played a considerable coope~~s~~ative role in contributing to the conclusion of the Kashmir Accord (1975) between Central Govt. and the ~~Kas~~ Sheikh Abdullah.<sup>48</sup> The accord, therefore, once again entrenched the Kashmir's special status within the Indian Union and prepared way for Sheikh's return <sup>+</sup> in power and to continue his old policy of maximum <sup>49</sup> ~~autonomy~~ for the state.

Dr. Faroque tried to follow more ~~as~~ or less the policy of his father. Mr. G.M. Shah declared that he would also follow the policy of National Conference and Sheikh Abdulla~~ha~~<sup>50</sup> but <sup>would</sup> have cordial relations with the centre. All the Chief Ministers were the defender of Kashmir's Special Status, as guarantees under Art. 370 of the Indian Constitution, and the removal of regional disparities through economic development.

As regards the Council of Ministers as a whole, the Main problem has been interparty factionalism which has be<sup>61</sup>



a more genuine threat to the governmental stability than the opposition parties. One thinks in this connection of the functional infighting between Sheikh and Bakshi, Bakshi and Sadiq, Sadiq and Qasim, Sheikh and M.A. Beg, Farooq and G.M. Shah in recent times. The <sup>factional</sup> infight in Kashmir claimed many govts. By and large there have been no glaring departures from the norms of collective responsibility.

### The State Legislature:

Like British India, in Kashmir too the change from an autocracy to democracy has not been sudden but <sup>gradual</sup> gradual. The <sup>Raja</sup> 'Raja-Sabha' - The Legislative Assembly - which was in existence even in pre-independence period (i.e. since, 1934) was, therefore, a result of a prolonged agitation of the Kashmiris against autocracy. But its was just to hoodwink observers. It enjoyed very limited powers and the ultimate authority was vested in the Maharaja.<sup>51</sup>

Under the present Constitution the State Legislature is the highest law-making body with the powers to legislate on all matters, except those with respect to which parliament has powers to make laws for the state under the provision of the Constitution of India.<sup>52</sup> It is a bicameral legislature<sup>53</sup> made up of a Legislative Assembly and Legislative Council. The Legislative Assembly is to consist of 100 members, including<sup>54</sup> twenty-five seats which will remain vacant for the representatives of the people living in Pak-occupied area of the state. If the Governor is of the opinion that women folk are not adequately represented in the Assembly, he may nominate not more than two women to be the members thereof. So the total



10<sup>2</sup>  
 strength may reach. The assembly is elected on the basis of the adult franchise and for a period of five years. The Legislative Council is to consist of 36 indirectly, elected members, giving representatives to <sup>functional</sup> functional groups, local bodies and other social interests. The council unlike the Assembly is not subject to dissolution but one-third of its members retire every two years. As the constitution embodies a parliamentary system of Govt., the Legislative Assembly exercises supreme Control over the political Executive - the Council of Ministers. In matter of Legislation, the respective powers of the two Houses envisaged in the Constitution are also somewhat after the pattern of other parliamentary democracies. The Constitution recognises the <sup>prominence</sup> prominence of the Legislative Assembly over the Legislative Council. All bills other than money bills, however, can be introduced in either House of the Legislature and before presentation to the Governor for his assent, are required to be passed by both the Houses. A bill which is pending in the Legislative Assembly or which, having been passed by the Legislative Assembly, is pending in the Legislative Council, lapses on the dissolution of the Assembly. But a bill pending in the Legislative Council, which has not been passed by the Legislative Assembly does not lapse on the dissolution of the Assembly. The money bills cannot be initiated in the Council. The Council Functions as a check on the Assembly but this check is limited to delaying the process of legislation. The Council never posed problem to the party-system and has done well as a second chamber.

<sup>tone</sup>  
 The Kashmir Legislature, in ~~time~~ with the spirit



in the country as a whole, has sometime ~~become~~ become a prey to considerable disorderly and unparliamentary conduct. But on the whole, such occurrences have been very few. One reason for such developments could be that the nature and quality of the members have been undergoing changes. Not only younger person but also persons from hitherto deprived groups and those belonging to the generation born in post-independence period have considerably contributed to the qualitative changes in the membership. They are more socially conscious and more acutely sensitive to the public issues and problems. Part of the behavioural confusions in the legislature of today may be attributed to the transitional conditions due to a change of guards.

~~( The Legislature is served by a Secretariat whose origin goes back to 1934. This agency is common to both the Houses. Its staff is administered and managed by a Board Consisting of the speaker of the Assembly and the Chairman of the Council. Its administrative head is the secretary to the Legislature. The secretary has also the responsibility to supervise the sessions of both the Houses. Each House of the State Legislature has a separate secretarial staff (sec. 63). The Legislature is served by a separate secretariat, whose~~  
<sup>56</sup>  
~~origin goes back to September, 1959. The Legislative Assembly Secretariat consists of officer (Gazetted posts), subordinate staff (a) clerical establishment and non-clerical (superior)~~  
<sup>57</sup>  
~~establishment, and Inferior staff. The recruitment and condition of their services are governed by the Jammu & Kashmir Legislative Assembly Secretariat (Recruitment and conditions of Service) Rule, 1959. Subject to the control of the speaker,~~  
<sup>58</sup>



the Secretary is the administrator<sup>59</sup> of the Assembly Secretariat and exercises full control over the Secretariat officers and staff and is responsible for the smooth working of the secretariat. However, there is a separate secretariat of J&K Legislative Council which consists of a similar type of staff as that of Secretariat of Legislative Assembly. Subject to the control of the Chairman the Secretary administers the Council Secretariat and exercises full control over the secretariat officers and staff and is responsible for its smooth working. However, nothing prevents the creation of posts common to both Houses<sup>60</sup> (see 63. p. 16. Constitution, vol. 1).

There is a good Library attached to the Legislature. It is meant for the use by the members, officers and the other staff of the Legislature. It is particularly valuable for official reports and documents. It also has a small cell, which caters to the needs of the members for information.

#### The Secretariat Administration:

The Secretarial administrative set-up of Jammu and Kashmir Govt. was also changed from time to time. The pre-independent secretariat administration was such<sup>to</sup>/suit best to the autocratic regime of the state. But in the post-independence secretariat administration like rest of the Administrative members was completely overhauled<sup>hauled</sup> in order to discharge the democratic responsibilities of the new govt. as well as to fulfil the aspirations of the people, who became



free after a century of autocratic rule. The ~~novel~~ feature which remained unchanged is that the secretariat of the state is located in Jammu, the winter capital of the Kashmir state from Nov<sup>e</sup>. to middle of May and for rest of the months it is shifted to Srinagar - the summer capital. At present the business (secretariat administration of the J&K state <sup>s</sup> comprised of) of the state govt. is distributed among the twenty departments of the secretariat. <sup>61</sup> Each department of the secretariat ~~is~~ consists of the secretary to the Govt. who is the official head of that department, and of such other officers and servants subordinate to him (e.g. an additional secretary, joint secretary, deputy Secretary and under secretary) <sup>62</sup> as the state govt. may determine. <sup>63</sup> Provided that more than one department may be placed in charge of the more secretary and the work of a department may be divided <sup>64</sup> between two or more secretaries. There are therefore (1) the secretary to Govt. Agriculture Department, (2) the secretary to Govt., Animal and Sheep Husbandry department, (3) the secretary to Govt. Education Deptt., (4) the Secretary to Govt. Finance Deptt., (5) the secretary to Govt., Food and Supplies Department, (6) The secretary to govt. Forest Department, (7) The secretary to Govt. General Deptt., (8) the Secretary to Govt., Health, Family Welfare and Medical Education Deptt., (8) The Secretary to Govt. Home Deptt., (10) The Secretary to Govt. Housing and Urban Dev. Deptt., (11) The Secretary to Govt. Industries and Commerce Deptt., (12) the Secretary to Govt. Information Department, (12) The Secretary to Govt. Law and Parliamentary Affairs department (14) The Secretary to Govt. Ladakh Affairs Department, (15) the Secretary to Govt. Public Works Department, (16) The Secretary to Govt. Power Development Department, (17) The Secretary to Govt.



Planning and Development Department, (18) the Secretary to Govt., Revenue Department, (19) The Secretary to Govt., Transport Department, and (20) The Secretary to Govt. Cooperative Department.<sup>65</sup> Except as otherwise provided for in the rules, all business allotted to a department shall be disposed of by under the general or special direction of the Minister-in-charge. Copies of such special or general directions issued by the Minister shall be sent to the Governor and the Chief Minister.<sup>66</sup>

The Secretariat has its own well equipped ~~it~~ own library which serves as a reference and general reading library, and it is under the control of the secretary to Government O & M Department.

The Chief secretary's<sup>1</sup> responsibility besides providing overall leadership to the administrative system, extends to the following items:

The chief secretary shall be the secretary to the Cabinet.<sup>67</sup> As such he attends all cabinet meeting, prepares records of the decisions which shall be *laicel* in the next cabinet meeting and submit to the Chief minister for approval. He then forwards a copy of such record to the Governor.<sup>68</sup> (Rule 7, p.6). In important cases the memorandum shall be shown by the secretary concerned to the Chief Secretary before transmitted to the Cabinet Secretariate. The Chief Secretary may return a memorandum to the Secretary concerned if it does not incorporate full details for proper assessment of the case.<sup>69</sup> The Chief Minister may direct that a case may instead of being brought up for discussion at a meeting of the cabinet, be circulated to the Ministers for opinion. Such case shall also be brought up before the Chief Minister



through Chief Secretary in a memorandum to be submitted for orders of the Cabinet,<sup>70</sup> when a case has been decided by the Cabinet, the Minister concerned has to give effect to the decision. If any deviation is proposed to be made from that decision by the Minister, the matter will be submitted to the Chief Minister for direction. In such cases the secretary in the department concerned shall supply to the Chief Secretary such documents as the latter may require to maintain his record of the case.<sup>71</sup> The Chief Secretary may on the order of Chief Minister or any minister or his own

call for papers relating to any case in any department.<sup>72</sup> The Chief Secretary may, after examination of the case, submit it for the orders of the Minister-in-charge or the Chief Minister through the Minister-in-charge.<sup>73</sup> If any question arises as to the Department to which a case properly belongs, the matter shall be refer to Chief Secretary, who will if necessary, obtain the orders of the Chief Minister.<sup>74</sup> The following cases shall be submitted to Chief Minister through Chief Secretary before the issue of orders: formulation of statutory rules and their amendment for regulating recruitment and condition of service of state services; administrative approval to works costing over fifty lakhs; relaxation of age limit, proposals for the grants of ~~parda~~ pardon, <sup>e</sup>reprieves, <sup>s</sup>repites or ~~remission~~ remission of punishment; questions of policy; cases affecting the peace and tranquillity of the state and minority community; constitution of an Advisory Board for the detention of persons with trial; communication with Election Commissioner; departure of rules; cases pertaining to the Governor's personal establishment; summoning and dissolution and prorogation of the Legislative Assembly, removal of disqualification of voters at election



to the Legislature, fixing of date of elections and relating matters; appoint<sup>ment</sup> of the officers of Legislature of the rank of under Secretary's and above; proposals involving the appointment, resignation, dismissal, removal or suspension of the officers ~~by~~ of the PSC except those of the status of Secretary, Additional Secretary or joint Secretary; periodic intelligence summaries from the home Department; proposals for the transfer of Dy. Secretaries, Senior Scale IAS officers and junior scale IAS officers; premature retirement of non-gazetted officers; grant of advance increments not covered under rules and extension in services of non-gazetted officers or re-employment after retirement of any such officer. But every order or instrument of the Govt. of the state shall be signed either by Chief Secretary, the Additional Chief Secretary, an Additional Secretary, a joint secretary, an additional joint secretary, a Dy. Secretary or under secretary to the Govt. or such officer specially empowered. When there has been any departure of the Rules, the concerned Secretary shall personally bring the matter to the notice of Chief Secretary.

#### District Administration:

*The state of Jammu & Kashmir, which consists of 14 districts, is administratively divided into two divisions, Jammu & Kashmir including distributed in its three regions, The Jammu, The Kashmir and The Ladakh.* At present a district is headed by a Deputy Commissioner. He exercises powers of Collector on the revenue side and powers of a District Magistrate on the Criminal side. Formerly Dy. Commissioners were designated as Wazir-i-Wazarat and they exercised powers of Assistant Collector 1st Class on the revenue side and power of



Sub-Divisional Magistrate on the Criminal side. The Deputy Commissioner is aided in his revenue work by an Assistant Commissioner and in some cases by sub-Divisional officer<sup>77</sup> as well.

Each district is sub-divided into a number of Tehsils, each Tehsil being headed by a Tehsildar. He has powers of Assistant Collector first class on the revenue side and powers of a Magistrate first Class on the <sup>criminal</sup> revenue side. The Tehsildar is aided by a number of Naib Tehsildars. Each having powers of Magistrate second class on the Criminal side and Assistant Collector of the second class on the revenue side. During Modern times various other items of work have been added to the list of Tehsildars duties, namely preparation and revision of Electoral Rolls, conducting of census and compilation of statistics connected therewith, rationing in rural areas and rehabilitation, of refugees and soon. The nature of duties of a Tehsildar, therefore, calls for considerable public contact. Above the district level we have a Divisional Commissioner in each of the two divisions of the state namely, Jammu and Kashmir. The Divisional Commissioner besides supervising the functions of the Revenue Department in their respective Divisions, also act as liaison and supervisory officer in respect of various departments functioning in the Divisions.<sup>80</sup> Formely, these divisions were called provinces and each province was headed by a Governor who exercised the power of collector and District Magistrate.<sup>81</sup>

Over the Division Commissioner we have a financial Commissioner who is the Head of the Revenue Department.<sup>82</sup>



### The Civil Services:

As in the other states in general, the civil services personnel in Jammu and Kashmir can be, at present, classified functionally and cader-wise. The details of services -- KAS and other General administrative Services are as under:

#### A) Departmental Services:

The following gazetted services will be departmental services:

1. The J&K Secretarial (Gazetted) Service
2. The J&K Revenue (Gazetted) Service
3. The J&K Cooperative (Gazetted) Service
4. The J&K Excise and Sales Tax (Gazetted) Service
5. The J&K Industries and Commerce Departmental Service
6. The J&K Information (Gazetted) Service
7. The J&K Tourism (Gazetted) Service
8. The J&K Labour (Gazetted) Service
9. The J&K Social Welfare (Gazetted) Service
10. The J&K Community Development and Nation Extension (Gazetted) Service.
11. The J&K Employment (Gazetted) Service
12. The J&K Hospitality and Protocol (Gazetted) Service
13. The J&K Food and Supplies (Gazetted) Service
14. The J&K Transport (Gazetted) Service
15. The J&K Stationery and Printing (Gazetted) Service.

In order to provide equal opportunities and facilities for induction into KAS in due course of time, all the afore-mentioned Departmental Services shall have a



uniform time scale of Rs. 1000-1560 and further that a selection ~~of~~ grade of Rs. 1200-1800 shall be provided equal to 20 % of the posts in the time scale in each service.

However, all departmental services shall provide 50 % promotion quota and 50 % direct recruitment quota at the level of posts in time scale pay of Rs. 1000-1560.<sup>84</sup>

Moreover, there shall be combined service competitive examination for direct recruits of all the departmental services to be arranged in consultation with Public Service Commission by the General Department (Services), who will also arrange allotment of candidates to various services. The departmental services will, however, continued to be managed by the concerned administrative departments.<sup>85</sup>

B) Kashmir Administrative Service:

The Kashmir Administrative Service shall<sup>86</sup> comprise the following scales:-

- a) Supertime scale of Rs. 2600 - 3100
- b) Selection grade of Rs. 1850 - 2390
- c) Senior time scale of Rs. 1300 - 2030

The number of supertime scale posts shall be ten (10) and appointment/promotion to these posts (like promotion to selection grade) shall be made on the basis of merit and suitability from among the selection grade officers.

The number of posts in selection grade, however, shall be 20 % of the strength in senior time scale of pay reduced by the number of posts carrying supertime scale subject to a minimum of 15 % of the senior time scale posts.



All administrative posts of and above the rank and pay of Rs. 1300-2030 in the departmental services shall be included in the KAS cadre. The officers who are members of different department services holding these posts at present shall be inducted into KAS placing them in the order of their dates of appointment/promotion to the grade of Rs. 1300-2030.<sup>87</sup>

There shall be no pre-determined and fixed quota or percentage of posts for promotion/appointment to KAS from the departmental services but the selection from these services made from time to time shall bear the ratio as far as possible to the number of posts in feeding services provided that a minimum of 15 % of vacancies shall be earmarked for other services including technical services wherefrom suitable officers may be inducted in KAS.<sup>88</sup>

The officers appointed to the KAS by promotion in future shall undergo foundational course to enable them to discharge the duties of the posts of general and varied nature.<sup>89</sup>

The state government recently, has taken a policy decision that honest and dedicated service will be appreciated in different ways. A set of well considered norms, and regulation has been, therefore, evolved and circulated to all departments regarding the grant of awards for honest and dedicated service.<sup>90</sup>

#### Public Enterprises in the State:

Industrial development is of utmost importance to the developing societies like ours. As the industrial base of an economy expands, there takes place a shift from



‡ Before independent on the govt's

1948 . (Chandhary notes  
P-105)

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low earning occupations of primary sector to high earning occupations of industry and which raises the standard of living of the people. One of the major objectives of the planned economic development, therefore, has been to diversify basically primary sector economy and to gradually expansion of the Secondary and Tertiary sectors. However, it is a proven fact that rapid industrialisation can substantially push up the productivity, the per capita income, the saving capacity of Labour and, thus, increases the rate of investment which results in a rapid allround economic development.

The State of Jammu and Kashmir, which is known all over the world for its scenic beauty, has not been very fortunate in this respect and lags far behind other states of Indian federal polity in industrial activity. On the even of the independence of the country and for quite some time thereafter, industrial activity in the state was limited to handicrafts and sericulture.<sup>91</sup> The only industrial units work the name were a fene forest-based units. The first meaningful step towards industrial development. ~~The first meaningful step towards industrial development~~ in the small scale sector was taken in the late fifties with the setting up of industrial estates in various parts of the state.<sup>92</sup> Unfortunately, most of the estates remained grossly under-utilized for a long period and were in consequence utilized for non-industrial purposes in some places. The beginning of ~~the~~ seventies marked a change from the past. The state Govt., formulated a comprehensive but very attractive set of incentives to attract enterpreneurs from within and outside the state to invest in industrial ventures and for the development of industries in the state.<sup>93</sup> These incentives provided a large number of concessions for industry, particurlaly in the small scal



sector e.g. allotment of fully-developed industrial plots with all infrastructural facilities on nominal prices, subsidy of feasibility reports, power tariff, permission to set up captive thermal or hydal generating sets by individual and group of industries, subsidy on diesel ~~gov~~ generating sets, training enter<sup>e</sup>preneurs in the small sector, price preference of goods sold ~~&~~ to the govt. Deptts. by local small scale units and tax benefits<sup>94</sup>. Besides, the entire state has been ~~&~~ declared a backward area and is covered under the 25% capital subsidy ~~scheme~~<sup>95</sup> scheme of the Government of India. About the same time, the Central Govt., also sanctioned a scheme for providing special concessions for promotion of industries in backward areas, which included capital investments subsidy tax concessions<sup>96</sup> etc.

Notwithstanding these attractions, however, capital continued to be shy in J&K State. Handicrafts, of course, witnessed rapid progress. The small scale sector also made, some progress but not with the desired speed.

In mid-seventies, the state govt. took a more aggressive line in making a break-through ~~&~~ in the industrial fields. A Development Review Committee Comprising experts from various disciplines made a comprehensive study, inter-alia of the problems and prospects of industrial development in the state<sup>97</sup>. At the same time, large industrial houses in the country were invited<sup>98</sup> to make investments in the state. All these efforts indeed fructified as a result of which several projects in the large and medium sector came up. The introduction of the District Industries Centres in 1978<sup>98</sup> also acted as a catalyst for the industrial sector particularly for the small scale sector.



The State Govt. has also set up J&K Industrial Development Corporation (SIDCO) as a model agency for solving the pre-investment and post-investment problems of entrepreneurs, setting up large, medium units, and J&K Small Scale Industrial Development Corporation (SSICOP) to procure raw-material requirements of the various industrial units from outside state.

The State Industrial Development Corporation has been instrument in the promotion of a number of private sector projects in the state. Some of the most important of these projects are:-

1. Synthetic Detergent Factory of M/s Hindustan Levers Ltd; at Jammu.
2. Vanaspathi Ghee Unit of M/s K.C. Vanaspathi Ltd; at Jammu.
3. Rosin and Turpentine unit of M/s Pine Chemicals Ltd; at Jammu.
4. Rosin and Turpentine unit of M/s Prabhat Terpenes Ltd; at Jammu.
5. Rosin and Turpentine unit of M/s Dujodwalla Industries Ltd; at Jammu.
6. Pencil Factory of M/s Sanghvi woods Ltd; at Jammu.
7. Pencil Factory of M/s Cade Wood Ltd; at Jammu.
8. Barbed wire Unit of M/s Trendwire at Jammu.
9. Sports Goods Unit of M/s Pioneers Sports Ltd; Kashmir, and
10. Apple Processing Plant of M/s Cadbury Ltd; Doabagh Kashmir.

The State, however, has certain intrinsic problems - its mountain-locked nature, difficult terrain, distance from the market, which hint the choice of industries which can be set up in the state. Nevertheless, today the state can claim to be heading towards an industrial climate which raises new hopes for the future.



units wherein an amount of Rs. 49,00/- crores (approx.) has been invested. Similarly<sup>103</sup> number of small scale units have gone up from about 3,000 in 1978 to about 15,000 where direct employment of about 69,000 people has been generated. There are about 14<sup>103</sup> public sector undertakings which are playing a pivotal role in the industrialisation of the state.

### Planning:

Planning is essentially a way of organising and utilizing the resources of a country in order to get maximum benefit in terms of defined social objectives and to obtain a wholesale transformation of social structure.<sup>104</sup> The very fact that almost all countries of the world have now adopted planning as a technique for socio-economic development, is a fair indication of its crucial role.<sup>105</sup> Planning is done in the third world countries to fight the age-old problem of poverty and hunger and to usher in prosperity.<sup>106</sup>

However, 96 % of the population of Kashmir state lived in far-flung and isolated villages subsisting on primitive agriculture which yielded an average annual income of about Rs. 11/- per head.<sup>107</sup> Their entire history is an account of rapacious invaders bearing down upon their beautiful valleys to pillage and oppress, leaving them in dire poverty to till terraced slopes with laborious patience.<sup>108</sup> Inspite of fertile soil, mineral resources, the unlimited water supply of its snowfed rivers, the immense wealth of its vast forests, the matchless skill of its world famous craftsmen, and the bracing climate, of Kashmir, its inhabitants used to trek down to the towns of the Punjab to work as coolies in order to earn enough money to pay land revenue to the federal administration and interests to the money lender.<sup>109</sup>



The main objectives of the planning in the state, therefore, is economic growth and socio-economic development, Industrialisation and tackling unemployment problem; development of Agriculture, forests, mining and tourism; reducing regional imbalances; improvement of the conditions of the weaker sections and the poor and minimise the possibility of exploitation of the labourers and artisans classes by the richer section of the society. The economic policies of the ~~sax~~ state were reoriented after a series of discussions between the state Chief Minister, Prime Minister of India and the Planning Commission. A long range planning strategy had been evolved paying special attention to Kashmir's need for power and extensive and varied communications, absence of which had hampered industry and tourism.

To date, the state has completed six plans and the Seventh Five Year Plan is in progress. The outlay of the plans has increased from Rs. 12.7 crores to Rs. 2114 crores. The success achieved in so far is not only encouraging but satisfactory enough to lead to the conclusion that the Kashmir state has long last been able to determine its priorities in proper perspective.

The First Five Year Plan of the state (1951-56) was incorporated in India's First Plan as latter as March, 1953. The size of original plan was reduced from Rs. 2013 crores to Rs. 13 crores and ultimately to Rs. 12.7 crores and its main feature were Banihal Tunnel, development works to be financed out of central assistance and Developmental works to be financed out of the revenues of the state. The total expenditure during the Plan period was 11.52 crores. As a result there had been a considerable improvement in state's economy.



The Second Five-Year plan of J&K aimed at securing a coordinated and balanced ~~view~~ development of the economy of the State with a view to ensuring better standard of living for its people. This was sought to be achieved by increasing industrial and agricultural production and opening up of new and more avenues for better and fuller employment.



avenues  
Employment ~~even~~ accelerated considerably and provided employment to thousands of people. The total provisions under Industry <sup>was</sup> Rs. 82.12 lakhs i.e. 6.7 % of the total

<sup>114</sup> outlay. <sup>The Second Five year plan aimed at securing a coordinated and balanced development of the economy of the State with a view to ensuring better standard of living for its people. This was sought to be achieved by increasing industrial and agricultural</sup> The Second Five Year Plan of the State originally

<sup>115</sup> envisaged as outlay of Rs. 60 crores, out of which only 33.92 crores found their way in the country's plan under the eating of the state plan. The total expenditure during plan period <sup>116</sup> was 25.95 crores. The much stress was laid on construction works and social amenities. The plan had also brought an increase in the industrial units of the state (i.e. 98 in Kashmir and <sup>117</sup> 41 in Jammu). Thereby bringing further increase in the employment.

In the Third Five Year Plan, the State Govt. envisaged vital economic policies for the speedy achievement of a Socialist pattern of society along with rest of the country. <sup>118</sup> The plan expenditure had been spread over schemes with judicious care to ensure coordinated and even development of resources of the state with sufficient regard to the suitability and technical feasibility of individual projects and schemes. ~~Out of the total outlay of the plan Rs. 75.14 crores, 0.06 crores was kept for Industry and Mining. The total expenditure during plan period was 61.85 crores.~~

Topmost priority had been given to three main objectives such as development of power; setting up industries and exploitation of untapped mineral wealth. <sup>119</sup> Out of the total outlay of the plan was <sup>120</sup> Rs. 75.14 crores, 0.06 crores was kept for Industry and Mining. <sup>121</sup> The total expenditure during plan period was 61.85 crores.

As a result the number of factories in Kashmir raised to <sup>122</sup> 115 with total employment of 5,497 persons; and in Jammu to 75 with total employment of 3,526 persons.

\$ production and opening up of new and more avenues for better and fuller employment.



In the Fourth Five Year Plan, the emphasis had been shifted to vital wealth producing sectors of the economy. The strategy of development had been such as to firmly establish in-frastructures of growth so that further development could take place in a sustained manner. The total investment during the plan period was <sup>123</sup>162.85 crores. The end of the plan saw a rise in the registered small scale units upto 2203. Moreover, special incentives were introduced to accelerate the growth and development of drugs and chemical and textiles industries. The size of the Fifth Five Year Plan had gone up progressively. <sup>124</sup>

The investment made during the plan period was about three times the amount spent earlier. The total expenditure <sup>125</sup>during the plan period was <sup>126</sup>278.55 crores.

So far as the Sixth Five Year Plan the total investment envisaged was Rs. 900 crores. <sup>127</sup> Like other parts of the country, the State of J&K is now in the process of preparing its draft 7th Five Year Plan. The total size of the plan would be of the order of Rs. 2114 crores, envisaging a growth rate of 7.9% in the state economy. The National Development Council laid stress on food, work and productivity, requiring a strategy built around agricultural growth, creation of employment, improvement in industrial technology and infrastructure, and a shift in investment priorities towards items of mass consumption <sup>128</sup>

Through planning the state govt. has succeeded in giving a new orientation to state economy, quicken the pace of industrialisation, modernise agriculture and giving a new meaning and content to the life of the common man.

Thus, looking back at the last three decades of planning, one finds that a transformation has taken place and



firm ~~from~~ foundations laid of developing economy. Our S.D.D has touched the level of Rs. 844/- crores in 1980-81 and the per capital income of Rs. 1,439/- at current prices. The growth has been faster than at the national level. Agriculture has undergone a revolutionary change. Industry has started to take roots. Power generating capacity has gone up. A wide net work of roads has been laid linking even remote corners of the state. Education has been made free up to the university level and enrolment ratios have gone up. Health cover is wide spread and general health conditions of the people is much better and they live a ~~z~~ longer and prosperous life. Drinking water supply has also been provided to 42 % of the rural and almost entire urban population.<sup>129</sup>

#### The Centre-State Relations:

Jammu and Kashmir state, which is an integral part of Indian Union, enjoys a special status by virtue of Art. 370 of the Indian Constitution. However, the Kashmir's Constitution relations with the Union of India is still an incomplete story of adjustment of respective sphere of powers between federal polity and a constituent unit. It actually reveals the hazards of National-building in the developing world ~~religion language~~ where ~~race and culture~~ plurality of religion language, race and culture geographical factors and uneven political developments creates strains and stresses in the adjust<sup>ment</sup> of relations.<sup>130</sup>

The process of integration and constitutional adjustment, which had been adopted in regard to the other Indian States was not at all followed in the case of Kashmir. The Constitutional relationship between state and central govt. continued to be governed by the provisions of the Kashmir's Instrument of



Accession of 26th Oct. 1947 when the Constitution of India was being completed by 1950, it was deemed necessary to make provisions in Indian Constitution regarding the status of Kashmir state. Certain broad principles were agreed upon by the centre and state leadership in a meeting held in Delhi in May, 1949. The position crystallised finally, when the special provision 306-A drafted to be placed before consembly of India. <sup>131</sup>

This Draft Art was revised three three times just to accommodate the view points of both the parties. <sup>132</sup> The provisions giving a special status to the Kashmir state, therefore, were finally embodied in the Art 370 of the Indian Constitution. <sup>133</sup> It was a step to fulfil the long-cherished desire of Kashmir leader with regard to State autonomy, by limiting the powers of Union President and parliament. Thus only Art. 1 and 370 of the Indian Constitution were to apply to Kashmir. Sheikh Abdulla followed a policy of maximum autonomy for the state throughout his first tenure of Prime Ministership. Further elaboration of the relationship culminated in signing of Delhi agreement in July 1952, but some of the controvercial issues were again left for ~~further~~ further discussion. <sup>134</sup> Bakashi, G.M., the new Prime Minister, after the dismissal of first Sheikh ministry in August, 1953, embarked upon with India on firm grounds and the work of the Kashmir Consembly started afresh with renewed vigour. He followed a policy of limited antonomy and partial and cautions integration of state with India. The Kashmir Constitution was finally enacted in Nov. 1956 and enforced on 26th January, 1957 by <sup>135</sup> giving effect to this policy.

After Bakashi when Mr. Sadiq came to power in 1963, the integrative process continued. His period was marked as a period of a steady movement towards state's fuller integration. <sup>136</sup>



This resulted the application of Arts. 81, 356, 357 to the state. The state constitution was also amended to change the nomenclature of the Sadar-i-Riyasat and Prime Minister.<sup>137</sup> On political level also the National Conference was merged into the Indian National Congress. All these steps brought India and Kashmir closer on the constitutional and legal level.

Sayed Mr. Qasim, after the death of Sadiq in 1971, played a considerable cooperative role in contributing to the conclusion of the Indira-Sheikh Accord of 1975. The accord,<sup>138</sup> therefore, once again entrenched the Kashmir's special status within the Indian Union and prepared the way for Sheikh's return to the constitutional<sup>al</sup> position. Sheikh again urged for the largest possible state autonomy, stressed the finality of the accession and the special status of the state as provided under Art. 370 of the constitution of India and reflected further in the Indo-Kashmir Agreement of 1952 as well as in the Kashmir accord of 1975. Dr. Farooq, more or less, tried to follow the policy of his father so far as centre-state relations were concerned. G.M. Shah, the present Chief Minister has declared that he would also follow the policy of National Conference and Sheikh Abdulla but<sup>will</sup> have cordial relations with the centre.<sup>139</sup>



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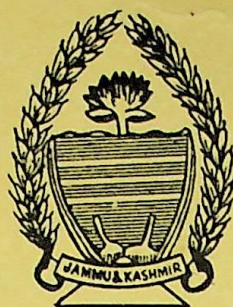


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VI



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JAMMU

JAMMU AND KASHMIR GOVERNMENT

Appointment of Committees and Their  
Terms of Reference of Reports  
of Kashmir Consenbly.

Department

FILE NO: 64

Appointment of Committees and their terms of reference  
of Reports of Kashmir Consenbly  
(Donated by Dr. Vidya Bhushan)

SUBJECT

ARTICLES.




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32

decided that the Constituent Assembly should be convened and the question of payment of compensation or otherwise to the landlords should be decided by the peoples representatives assembled therein. While answering the question as to why the Government had decided the half of the problem and other half had been left to the House, he said that they could not delay the taking over lands from landlords because the world demanded that the land should be owned by such persons who raised the produce thereof from through their sweat and blood. He further pointed out that without that action the establishment of peace in the world was not possible. He added that under these circumstances, they could not afford to wait till the establishment of Constituent Assembly. National Conference, as a party, was of opinion that the landlords should be given no compensation. He pointed out that though National Conference was a ~~very~~ popular party in the whole country yet there existed a party of those jagirdars and chakdars who wanted that landlords should be compensated. They had put candidates in the recent election and their slogan was that landlords should be granted compensation for their expropriated lands. He added that they had decided that for the first years three fourth of the revenue assessed on the land from which expropriation had taken place be paid to the landlords. The landlords had not to receive three-fourth of the revenue from the peasant but out of the revenue which the Government would realize from the peasants for the first year, ~~as~~ two-thirds for the second year and for the third and subsequent



year one-half of such land revenue till the time the Constituent Assembly decide that question. He pointed out that National Conference stood committed to the non-payment of the compensation and the members of that organization alone had returned. The landlords perfectly knew that they could not succeed as to how those people whose forefathers had suffered tax tyranny an oppression from those big landlords could cast their votes in their favour. The party had tried their luck in two constituencies<sup>30</sup> of Jammu Province but the two independent members supported by the big landlords were defeated. He said that the principle<sup>31</sup> was clear and simple as that they had already decided in 1938 that when National Conference would come in power after winning the confidence and support of the masses, it would take away the land from the absentee landlords and would give it to the real owner - the tiller. The election manifesto of National Conference had made it clear that no compensation would be granted. The public fully supported them on the matter and their nominees had returned in the election. He added that although it was not necessary for them to bring that issue for consideration as the people had already given their opinion in that behalf, still National Conference entertained no animosity towards the people whose land had been distributed among the peasants. They had always been taking impartial view in deciding questions. The land was not transferred to the tillers by reason of any malice towards jagirdars. He pointed out that they were also, like the peasants his own flesh and blood and his own kith and kin. He added that the honour of the jagirdars was as dear<sup>to him</sup> as the peasants because both constituted the people of that country. He appreciated M.A.Beg of tracing out historical facts by which



those landlords had acquired the land. He accepted that there were instances where the people have sold out their property and purchased land. But after their expropriation from the lands they had to see whether they had any means of substance to enable them to lead an honourable life. Their childrens were their own and they had to see that no injustice was meted out to them. While explaining the reason of setting up of a committee he pointed out that the Committee should investigate that no injustice should be done to anyone. The other reason was that the committee had to decided the princip<sup>le</sup> according to which only such persons could become the owner of the land who tilled it themselves. He added that the Lands Reforms Committee had recommended that the jagirdar should be given 10-12<sup>31</sup> acres of land but the Government allowed landlords 22 acres of land~~xx~~ to enable them to make both ends ~~to~~ meet. The Government had not expropriated from them the orchards and the pastures lands. He again pointed out that although that Government had arranged in such a way ~~xx~~ as to save the landlords from becoming ~~xx~~ paupers yet inspite of that a committee had<sup>to be</sup> constituted to fix out if there was any instance where provisions for livelihood might be necessary. Though the country had confidence in them yet they had not ~~grugged~~ grudged the appointment of the committee to ~~xx~~ scrutinize all the facts. On that committee representation had been given to the people of different interests -- who had been expropriated from land and those who had been benefitted by that Act. With these words he seconded the motion moved by Mirza M.A.Beg. Mr. Ghulam Rasool Kar pointed out that landlords had also taken possession of grazing areas as well of Khalsn areas but Mr.M.A.



Beg had not fully explained that point. He enquired why the cost of such land should not be recovered from landlords who had been in possession of those "Shamliats" Deh" which originally had belonged to small landlords. He gave examples. That Dr. Shiv Jee had been in possession of one thousand kanals of village "Shamliat Deh" of small land holders at Hajan who continued to derive benefit thereof uptill then. In 1946 - 47 the cultivators of Kharpora had agitated against Th. Kartar Singh complaining that he had unjustifiably expended the limits of his jagir and Government of that time had set up a Commission under Mr. Moh'd Maqbool Pandit. Thus it had been improved on the basis of investigations that he had really made encroachments. Likewise the big landlords took over the possession of grazing areas while the grazing fee used to be paid by the small peasants. He enquired would it not be worth while to recover cost of such lands from these big landlords and ~~div~~ distributed it among the small peasants. He wanted that the mover to throw light on that point also. Mr. Ghulam Qadir was of opinion that mover had fully explained the resolution under discussion while emphasising the matters in view of which the land lords and chakdars had acquired the ownership of land on paper and had derived benefits in various forms. He added that speech of Sher-i-Kashmir on the resolution under discussion had fully explained the whole matter. Thus he concluded that the mover and Qaid-i-Azam had thrown sufficient light on all the suspects of the committee also and no need of further discussion. On the enquiry of Mr. M.A. Beg and Maulana Moh'd Sayed Masoodi and President Mr. Ghulam Qadir said that he had supported

32. Ibid P. 22.

33. Ibid P. 22.



While moving the resolution Mr. M.A. Beg said "whereas it has been provided in section 26 of the Big Landed Estates Abolition Act, 2007, that the question of compensation with respect to the land from which expropriation has taken place under the said Act shall be settled by the Constituent Assembly of the State!" He moved that the Assembly resolved:-

- (a) that a Committee be appointed to examine the desirability or otherwise of the payment of compensation for lands expropriated under the provisions of said act;
- (b) that the Committee might consult the views of the various interests and sections of the public during the course of its deliberations;
- (c) that the Chairman might delegate his functions to any other member of the Committee in his absence;
- (d) that the Committee might coopt any person as an expert to render such assistance in its work as might be required;
- (e) that the Committee should submit its report to the President of the Assembly within 3 months from that date.

While moving the resolution Mr. M.A. Beg pointed out that the members of the House already knew that the agrarian policy of the National Conference was given in Naya Kashmir where in they had already declared

20. C.A. Deb. Vol. I. No. 4. 6th Nov' 1951. p.2.

21. Govt. of Jammu & Kashmir Big Landed Estate Abolition Act No. VII of 2007, The Rambhadracharya Press 1950 P.14. Sec. 26  
 "Payment to the proprietors— There shall, until the Constituent Assembly of the State settles the question of compensation with respect to the land from which expropriation has taken place under this Act, be paid by the Govt., to every proprietor who has been expropriated from any land under the provisions of this Act an annuity in the following manner:-  
 (a) for the first year after expropriation an amount equal to 3/4th of the land revenue assessed on the land from which expropriation has taken place;  
 (b) for the second year 2/3rd of such land revenue; and  
 (c) for the third and subsequent years 1/2 of such land revenue;  
 provided that the amount so payable shall not in any case exceed a sum of Rs. 3000 per annum  
 provided further that no such amount shall be payable in respect of any area sold or appropriated by the proprietor from lands recorded as Shamlat-Dah."



8 eight years ago that the real owner of the land was the actual tiller of the soil. Thus the first and foremost problem of their State ~~was~~ to solve the agrarian question. He added that Qaid-I-Azam (Sheikh Moh'd Abdullah) had declared <sup>last</sup> previous year on Martyr's Day that all those persons who woned land in excess of 182 kanals would forgo their ownership in respect of such lands from the date of enforcement of the Big Landed Estate Abolition Act. And after abolition of previous rights of owner ship, the peasant who was its actual tiller from Khari f S. 2007 would become the owner of the land. After the ~~that~~ declaration of that policy, the Big Landed Estate abolition Act was enforced and under it lakhs of ~~kanals~~ kanals of land had been transferred to the tenants. After the enactment of that law the owners of the land had raised an issue that they might be compensated for the ownership of which they had been deprived. He said that under the declared policy of the National Conference no such land lord was entitled to any compensation but they had provided in section 26 of the Big Landed Estate Abolition Act ~~in~~ 2007 that the question as to whether the previous owners of land were entitled to any compensation or not would be placed before the constituent assembly when it was convened in the State. That House had to decide whether such land lords should be paid any compensation. He then narrated the past history and the circumstances and principles under which these land-lords had achieved ownership of those Big Lands. He added that in the past times people had considered God as the soul owner of land and in view of that devine theory the rulers who



held as images of God had come to be considered as owner of land. That principle was accepted during the Hindus the Muslims and the Sikh periods. But in the beginning of the Hindu rules the proprietary rights of land were vested in the joint family and there was no appreciable change during the Muslim period excepting that some protective measures were adopted for revenue to a certain extent so that a part of the produce might be realised by the state. He pointed out that during the Sikh period the same class of people who realised revenue during Muslim period continued to do so. That class consisted of such people who had rendered either military or some meritorious services to the Government of the times. These were the people who were kept in charge of the work of realising produce of land from the peasants with the result that tiller who used to toil on land had come under the influence of that class. That intermediary class also realised the share of government and the same practice was followed throughout the regimes namely that the ownership of the land was not considered to vest in the tiller but in the state and thus State was considered the real owner of the land. The ~~man~~ man toiling on the land did not enjoyed such privileges as were enjoyed by the non-tillers. In Hindu, Muslim and Sikh periods the tillers of the soil was under an iron grip of the rulers. Then came Dogra rulers who held the reign of the Government of the State by the help of the British, assumed their power through a sale deed and hence purchased against cash payment all lands forests, rivers and flora and fauna. That also adversely effected an agricultural



system of the state. Land lord class consisted of such influential people as had fought for the Government during the wars or who by securing the good-will of the Government became the recipients of that reward. That class of the royal favourites was thrust upon them who thus had come into possession of lakh of kanals of lands ~~expaying~~ without paying for a penny for the same. Lakhs of kanals of lands had been given away to such people on Pattas and Partas. He then pointed out that such class of people demanded compensation in order to <sup>nullify</sup> lullify the effect of the Big Landed Estate Abolition Act 2007. That class in the past had by snatching away the rights of the peasants, acquired land. In other words that wealthy and influential class, after creating misery for the tiller trampled upon his rights for a considerable time. Through ~~taxes~~ <sup>the</sup> influence and favours of the rulers their names adorned the revenue papers. He again pointed out that with the passage of times various proclamations from the rulers in the form of Raj Tilak Boon, Pratap Gude and similar other Ailans were announced from time to time. Those proclamations were neither to denote the ruler's sweet will or were issued on some alms giving occasions. Thus rulers used to distribute cultivable lands amongst their favourites. He added that system of granting gifts in the shape of lands was limited to only kingsmen and favourites with result that a new class had sprang up after snatching land from the toiling peasantry. Those favourites granted the most precious wealth which God had bestowed upon them in the shape of forests. In



Jammu ~~xxx~~ dozens of Rakhs were given away to such persons whose names he did not want to disclose. He said that in most of the tehsils of Kashmir such as Badgam, Sopore, Kulgam and Baramulla lakh of kanals of lands had been transferred in ownership right to that favourite class.<sup>23</sup> He pointed out that Maharaja Hari Singh, on ascending the Gaddi in 1924-25 issued a royal proclamation called the Raj Tilak Boon. On the basis of that declaration which they named as royal favours the Maharaja permitted the landlords to annexe village common lands (Shamilat) with their holding and those Shamilat (village common lands) had come into the possession of landlords to the extent of cultivated land they already had possessed. That resulted "when something is given once is continued to be given indefinitely". He added that deceit and <sup>fraud</sup> ~~fright~~ also took place while these orders were operated upon so much so that the land of such poor man who had only 10-15 kanals of land was grabbed by the influential elements and annexed with their lands with the result that the pretty land lords lost practically everything. He pointed out that in Kashmir 1,60,000 acres of lands and 3,10,000 acres of lands<sup>24</sup> in Jammu were given away under Raj Tilak Boon. He further pointed out that there was another class which Maharaja Hari Singh brought into existence through a new device which he had introduced during his reign. According to that a Jagirdar who had surrendered his cash Jagir was to receive twice and four times the equivalent land in Jammu and Kashmir respectively. The fourth class then consisted of such <sup>excess</sup> people who owned land ~~inxxxxxxx~~ of 182 kanals ~~in~~

23. C.A. Deb. Vol. I. No. 4 Dated 6th Nov. 1951 p.5

24. C.A. Deb. Vol. I. No. 4. Dated 6th Nov. 1951. p.6.



for which they demanded compensation. He said that they would consider what historical, moral and legal justification had for those people in demanding compensation. He recalled that Maharaja Gulab Singh had purchased the State for seventy five lakhs of rupees but he had not enough of money in hand at that time, so he ~~was~~ was in search of money lender. It was said that he found money lender - Dewan Jawala Sahai who ~~was~~ had given money to Maharaja Gulab Singh and entered into an agreement with the Maharaja by which it was decided that the premiership of the State would be vested in the family of Dewan for generations to come and moreover the State revenue would be distributed between the Dewan and the Maharaja in the ratio of <sup>23</sup> 2/- -/14/- respectively. After some time Maharaja had thought that he had made the Dewan in the partner of the State revenue for nothing so it would be better to ~~ask~~ oust him from the Government and with that of objective in view he persuaded him to select lands permanently for himself in the Province of Jammu and Kashmir instead of receiving a share of -/2/- per rupee of land revenue. So the Dewan transferred to his own name the lands in various tehsils of State such as Islamabad, Kulgam, Awantipora, Samba, Ranbir Singhpora etc. <sup>26</sup> A widow of that family then owned 1,20,000/- kanals of lands and they had given her under that act 182 kanals of land. He also demanded compensation. Similarly there was a Raj of Chenani who owned 3,10,000 kanals of land. It was said that land was granted to him at the time of conquest and victories with the results that his name still adorned the revenue papers. He pointed out that Raja Sahib also demanded compensation.



He said that history has taken a new turn that day under the leadership of Sher-i-Kashmir, fifteen lakhs of peasant ~~s~~ had raised ~~xxx~~ their spressed heads with pride in order to regain the right snatched from them six hundred years back. While ~~xxxx~~ concluding his speech he said that the Chakdar and the Jagirdas had sucked the blood of the peasants for the last six hundred years and their bodies had been reduced to their <sup>a</sup>skelton. The hunger of the greedy Jagirdars remained unsatisfied and still cherished the desire of chewing the boons of that down trodden tillers of the soil. He added that the members had to see whether such people be given compensation. He further added that the other question was that from should whom such compensation be realised. He pointed out that till the time of Qaid-i-Azam's declaration of granting land to the tillers the peasants of the tehsil Kulgam could not get even a yard of land for burring their deads because the ownership right of that land vested in the Dewan. He added that an innocent child of a poor peasant was held guilty of lifting from the ground the rotten fruit which had fallen from a tree. That condition of the Kisans and the peasants prevailed from century. Those Kisans had neither food for <sup>the</sup> ~~the~~ <sup>their</sup> stomach nor clothese for rapping their naked bodies. They were not able to have food for a month even toiling for full twelve months. He also pointed out that the condition of Harijans was still worse. ~~Their~~ <sup>There</sup> existed such a barbarborous system that even the entry ~~xxxx~~ of the name of a Harijan in the revenue papers was considered a sign (shame). Those people were kept ~~a~~ not only as serfs but were put into



worst condition than that. At the end he asked whether they should demand compensation from such people. Mr. Bhagat Ram Sharma pointed out that the expression of opinion ~~xxx~~ at that stage was not necessary. But Mr. M.A. Beg pointed out that he had only related the chapter of history and did not give his opinion. The House had to decide the question. Mr. Mubarak Shah pointed out that it was not yet clear whether the mover would be acceptable to the House as Chairman of the Committee. The President said that the objection raised was not in order as the mover had only stated the facts on the basis of which he wanted to set up a committee and had not expressed his opinion. Mr. Beg again pointed out that he narrated the story of those people who acquired land by various methods and was telling them how the entry of the names of Harijans in the Revenue Papers considered a sign. He added that <sup>27</sup> lakhs of peasants consisting of harijans as well then had become the owner of the land by the help of the National Conference and had been entered in the revenue papers. The real owner of the land then wanted to get the fruit of his labour. The nominal owner had derived enough of benefits from those lands and even then he had demanded compensation on the plea that his ownership of land had been transferred to the poor <sup>the</sup> Kissan, so the Kissan should pay them the compensation for the expropriation of land. He said that the Settlement Reports and the opinion of Settlement Officers revealed the fact that the ruler of the country had granted every possible concession to the influential persons and the favourite class were given every opportunity to enjoy such privileges. He pointed out that they had to



see how far the grant of compensation demanded by these big Chakdars and Jagirdars was justified. He further added that before and after 1991 when the land Act was in force there were people who had purchased lands or had acquired it on ~~xxxx~~ mortgage by spending money. The members of the House had to see which out of that class of people deserved compensation. They had also to see such owners who had purchased lands more than last 20 years. The issue was whether such people deserved their attention or not and that how long those lands were in their possession and how much capital invested on such lands and how much capital has been derived on such lands. He said that if the House decided, after adopting his motion, to give compensation, to such owners, the Committee had to see wherefrom the compensation would come and to what extent it would affect the tiller. He pointed out that Qaid-i-Azam Sher-i-Kashmir beared the same sympathy and love towards peasants of enemy occupied area who lived across<sup>6</sup> the Cease Fire Line. He further pointed that ~~ix~~ Government had solved that problem with such ability courage and vellour that Shri Nehru had also been pleased to remark that thirty five crores inhabitants of India envy the approach of ~~Sxxx~~ Sher-i-Kashmir to that complicated problem. Thus the credit went to Sher-i-Kashmir and National Conference for such ~~xxx~~ enviable decision and proud results. He further added that these golden achievements demand that they should decide the compensation with similar wisdom and sympathy, protecting the oppressed. Thus he requested the House that it should agree to set up a Committee which should submit its



report after due consideration suggesting a decision of the question of payment of compensation or otherwise to the landlord in the same way in which they had solved the basic issue. S. Harbans Singh Azad while seconded the motion said that world was going ahead rapidly for the last 20 years, particularly in respect of food problem which ~~fact~~<sup>ed</sup> the world. He believed that the production of such countries where the peasants had been made the owner of the land, had increased from which it could be inferred that for the increasing the production of the land peasants should be made the owner of the land. He added that <sup>/the country's</sup> where peasant proprietorship was in vogue had made rapid progress. Mr. President pointed out that the motion before the House related to the setting of a committee to decide the question of payment of compensation to landlords and jagirdars but not that the peasants should be made the owners of land or land should be distributed among them. S. Harbans Singh Azad added that in his opinion that National Conference was committed to the distribution of lands among peasants without ~~any~~ payment of any compensation. He raised a question whether people <sup>who</sup> had acquired land by spending money should ~~be paid~~ any compensation. He said so far as Jagirdars and Chakdars ~~were~~ were concerned they have derived ample benefit from such land. He added that there were also people who acquired land through bribery about which he could quoted examples. ~~He~~ A few high officials had purchased enough a land and he was surprised to know the source wherefrom they got so much money. It was clear that those people must had sucked



the opportunity to do so. He said that in the end, the decision should first be taken on the amendments and then on the original resolutions. The President replied that it was necessary at that stage to follow the procedure suggested by Maulana Moh'd Syed. He further added that under Section 47 it was necessary to have the permission of the House for withdrawal of the amendment. The amendment was withdrawn with the permission of the House. Mr. Ghulam Nabi wanted that the name of Qazi Sahib might be substituted for Mr. Qasim in the <sup>personnel</sup> ~~personnel~~ of the Committee. The President enquired what he wish to say. Mr. Ghulam Nabi said that three members from Anantnagh had been taken in the Committee. They had better to take Qazi Sahib in the Committee as he was an experienced man. S. Kulbir Singh said that subject under discussion did not concern any particular illaga of the country but related to the entire country. Maulana Moh'd Syed raised the point of order and said so far as moving of an amendment to a resolution was concerned, that right course was that the mover of the resolution should have the right ~~for~~ of reply and the rest of the members could either support or opposed motion but could not say anything in reply. Sheikh Moh'd Abdullah said that the opposer of the amendment should have every right to advance his arguments. The President said that when ~~the~~ a member moved an amendment to a resolution, the mover of the resolution had a prior right to express his opinion whether he could accept the amendment or not. Mr. M.A. Beg said that so far as members from Anantnagh were concerned, Pandit J.N. Kakroo's selection was particularly guided by the consideration of representing an angle on the Committee which was necessary



and Mr. Ghulam Ahmad had happened to be a member<sup>s</sup> of the Land Reforms Committee representing landlords interests there. He had gained considerable experience and was one of the landlords who had been effected by Big Landed Estate Abolition Act. It was necessary to have such a gentleman on the Committee. He pointed out that so far as Mr. Qasim was concerned it was intended to utilize his services as the Secretary of the Committee and helped other experts whom they should invite for the purpose. He added that it had not been possible to have members from every tensil. The report of the Committee was to come before the House and the members were entitled to modify it any manner they like. He pointed out that landlords, pure tenants, cultivators and even those who were not cultivators had been taken on the Committee. Thus all the interests were represented in the Committee and the attempt had been made to bring on the Committee all possible angles. Mr. Ghulam Nabi withdrew the amendment with the permission of the House. <sup>27. Hakim</sup> Mr. Habib Ullah raised objection that when Big Landed Estate Abolition Act had already been passed by the Government to removed centuries injustice and to distribute land amongst the peasants why the question of compensation could not be decided by the Government and had been left to that House. President inquired whether he was speaking for against the motion. Sheikh Moh'd Abdullah said that he had raised point of information. Kh. Mubarak Shah said that the motion moved in the House that day related to such a legal measure as had added a new chapter worthy to be written in golden letters in the history of Democrated Governments of the world. He added that the example of such fudable



feudalism existed in France and Russia where the capitalists had trampled the poor under their heels and where the exploiter had crushed the poor for <sup>centuries</sup> which had resulted in arousing the poor masses who had shattered that system by force. Such elements did not exist ~~there~~ that day. In that country Big Landed Estates Abolition Act had not resulted in what it had resulted in other countries. He pointed out that <sup>when</sup> the poor people of Russia and France had arose against the ~~du~~ feudal system there was blood-shot and massacre which affected the other countries also. He congratulated them that they had brought about the bloodless revolution in the country which would be written in golden letters in the history of their country and would be considered a great miracle in the world. He said that it was amazing that the question of compensation was then brought before the House. The leader of the House had already remarked that no compensation should be given. The social justice should also be demanded, that why should those Jagirdars, who had sucked the blood of masses for the last hundred years and had made their fortunes by exploiting them, be compensated. He asked when the State had the proprietary rights over the land then how did the question of compensation arise. He again said that when the lands from big landlords were transferred to the tillers i.e. the rightful owners of the land, how did those big landlords claim compensation. He asked the House that the ~~a~~ feudal system which had exploited their bretherns for <sup>centuries</sup> reducing them to destitution, should be totally done away with. He pointed out that those who had purchased the land had also







the resolution. Mr. Ghulam Nabi said that it was clear to him that the acquisition of land had been manipulated by unfair means. They had been granted land by sucking the blood of the poor tiller and by resorting to repressing methods. He suggested that the committee should also take into consideration ~~the~~ the fact that they had held out a promise to the nation to put an end to the unjust and unequitable acts. As far as the question of purchased land he suggested that committee should keep in view the helplessness of the peasants. He added that the purchaser had derived benefit from these lands ten times <sup>34</sup> more as compared with the niggardly price he had paid therefore to the peasants. He said that they had allowed 182 kanals of land to each Chakdar which was more than sufficient for their substance. He added that there was a small number of tillers possessing more than 5-10 kanals of land. At the end he requested the house not to delay in taking decision in that behalf. Mr. Mph'd Afzal Beg enquired whether he had opposed the motion. The President pointed out that he had supported it. Mr. Abdul Khaliq Bhat pointed out that the period of 3 months fixed for the submission of the report by the committee was not sound as it was obvious that chakdars had acquired land by adopting sycophant tactics. He said that as evident from the speeches of the members compensation would have to be paid to those only who had no means of substance. He submitted that there was no landlords or chakdars who had not sufficient money and who could be safely called poor or oppressed and deserving compensation. He added that even at that time they had the right to possess 182 kanals of land in each case. He did not <sup>think</sup> it advisable to allow the ~~retention~~ retention of land by the absentee land lords and by those who did not till it themselves. So far as capital invested in land, he said that the committee would have to find out the sources wherefrom they had acquired that capital.



He added that they had ~~lack~~ of rupees extracted in the shape of bribe. He wanted that the committee should submit its report at once and not within proposed period of 3 months so that the peasants might not entertain any suspicion towards them and think that nothing was <sup>being</sup> done in that behalf. Maulvi Moh'd Anwar Shah Maseedi was also of opinion that setting up such a committee was very essential. He added that it was true that no landlord or chakdar deserved compensation of any kind. He said that the facts should be brought into the notice of the committee. He opposed the submission of the report by the committee before scheduled time of 3 months. Three months period for the submission of the report was not such as they should extract from that committee valuable suggestions on the question of compensation which would add to that confidence the Nation<sup>al</sup> Conference had gained from the common people. Mr. Sheikh Moh'd Akbar supported the proposal and said that the issue had become so important that the majority of the people was keenly watching the results as they were eager to ~~know~~ know the ~~future~~ future of the ~~peasants~~ peasants which was to be decided by the Assembly. He suggested the members of the committee not to over look the trickery of jagirdars and landlords in acquiring their lands. He pointed out that their primary object had been not to give any compensation to landlords and the land to the tillers had been the policy of the Nation<sup>al</sup> Conference. Mr. Chuni Lal Kotwal while supporting the motion said that that committee had to see the promises had made to the people by the members of that house were fulfilled. He suggested the committee to allow land to the tillers without compensation. Mr. Abdul Gani Trali pointed out that in 'New Kashmir' programme a chapter a 'Rights to Peasants' had been included - that

after expropriation of Chakdars and Jagirdars land would

35. 'NEW KASHMIR' undated. published by Mr. K. M. Bamezai. The Director, Kashmir Bureau of Information, 5 Pithi Ray Road New Delhi. P-28.



be distributed without compensation among tillers. He said that they had assembled there to give practical shape to 'Naya Kashmir'. He pointed out that they would not consider question of compensation to landlords as it was not laid down in 'Naya Kashmir' and they had to fulfill the promise laid to the peasants. With regard to those who had purchased land in exchange of money, he pointed out that such people possessed surplus capital. He purchased land from poor tiller on nominal consideration through mortgage or sale deed as they were unconscious, illiterate poor and were easily cheated by the moneyed people. He said that such moneyed people should not be granted compensation because the helpless peasants were not in easy circumstances ~~than~~ them and not in a position to pay compensation if asked. He added that if the government compensated them it would be a burden on the government treasury. Mr. Abdul Gani Gooni supported the motion and pointed out that they had ignored the particular class of land owners whose land was forcibly taken in possession by big Landlords in collusion with the Revenue Officers for example the Raja of Chenani<sup>36</sup>. He added that they had promised to the people that the land which had been usurpingly taken in possession would be transferred to its owners. He suggested the mover that the committee should also take that issue in consideration. S. Kulbir Singh supported the motion and said that that committee should investigate into the facts in an impartial manner and accordingly submit its reports. He concluded ~~his~~ <sup>his</sup> speech by saying that they had not to look to the Jagirdar's interests ~~but~~ only but to set the country on the path of progress as was laid down in 'Naya Kashmir'. Saeed Allau-Ud-Din Jilani supported the motion and traced out briefly the ways by which Jagirdars and chakdars had acquired land. He said that no compensation should be to landlords and



tyrants must learn a lesson. Hakim Habib Ullah said that inspite of injustice of the landlords they must not neglect these landlords as they were not against any class or community and they did not want to take the revenge against them. He pointed out that the motion was in regard to forming of a committee and the stage of discussion the merits and ~~demerits~~ demerits of the case would come latter. The President pointed out that it was a fact that the resolution was confined to the ~~forming~~ formation of a committee which would look into the question of payment of compensation or otherwise to the landlords but the speeches made by various members were relevant to the whole question. Mr. Bhagat Ram Sharma pointed out that another class of usurpers was who sucked the blood of the people by constructing buildings in towns instead of purchasing agriculture land. He suggested that for such usurpers too, a committee should be formed. He said that both these blood sucking ~~usurper~~ capitalists should be brought on one and the same level. Mr. M.A. Beg said that a committee would be formed for that purpose also. Mr. Mir Qasim while explaining two points said that the question was whether compensation would be granted or not. He added that Sheikh Moh'd Abdullah while illucidating the law had pointed out that issue would be considered as a law when the desire of the nation would be known through the house. He said that it was their moral duty, being the people's representative and servants of the nation, to fulfill the promises held out to the people. The committee therefore was being formed. He requested the members of the committee that they should bring the Big Landed Estate Abolition Act 2007 under consideration. He added that ~~it~~ if its reports were made to enquire the sentiments of the people even in a minor form the House should have ~~it~~ the right to discard it. He said



that they did not have any grudge against the Jagirdars as an individual but they had to end that system in which possibilities of privileges were created. He added that the social and economic facilities of the new system were alike for every individual and every individual of the society deserved that honour without any ~~distinction~~ distinction of ~~caste and~~ caste and or creed. He said that society was the ~~mirror~~ mirror of the rights of the individuals and if it did not recognize the basic principles of the security of the individuals rights, the programme of 'New Kashmir' which would finally expose the hollowness of these contradictions and thus end them. He made it clear to the members and the House that whatever proposal or resolution that placed before the House the same would become final after the considerations as the House was competent to decide every issue. He requested the committee to keep in view the decaying capitalism and place before the House its final opinion and supported the motion. Mr. Master Ghulam Ahmad while supporting the motion repeated the words of an English poet that it was better to sacrifice thousands of princes to keep alive a peasant. Moh'd Saeed Masoodi wanted to ~~dis-~~ close the discussion on the resolution as that resolution had been discussed at length and needed no more deliberation. The President put the closure motion to the House <sup>237</sup> which was unanimously adopted. The mover (Mr. M.A. Beg while replying the debate said that every ~~and~~ aspect of the issue had been discussed. He pointed out that as the land lords had acquired land illegally, in some cases through bribery and by other means, they did not deserve any compensation. He added that the ~~committee alone~~ <sup>XXXXXXXXXXXXXXXXXXXX</sup> committee alone



38  
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the committee alone could decide whether any compensation should be granted or not. He further pointed out that the period of 3 months prescribed the deliberations of the committee had been fixed for the reason that the final discussion on that issue had to be taken by the Constituent Assembly itself which would meet not before the interval of 3 months. He added that to end the social subjugation of the poor peasants they should end the paper ownership of the chakdars and ~~amkarak~~ capitalist. He said that as regards the question of compensation page number 47 of 'New Kashmir' was silent. Thus he requested to take a vote on the resolution. The resolution was put to the House and was adopted unanimously.

24. The members of the committee (vide C.A. Deb. Vol. I No. 4. P. 1-2 dated 6th Nov '51 and ~~Kaxark~~ Report of the Land Compensation Committee appointed by the Jammu and Kashmir State Constituent Assembly, 1951-52 Page. 1).  
Mr.

- 1 (a) 1. Mirza M.A. Beg as Chairman of the Committee and  
(b) Ten other members of the Committee named below:-

1. Maulana Moh'd Saeed - Member
2. Pt. Janki Nath Kakroo - .do-
3. Mr. Mir Qasim - -do-
4. Mr. Ghulam Ahmad Mir - -do-
5. Wazir Ram Saran Dass - -do-
6. Mr. Sagra Singh - -do-
7. Mr. Chela Singh - -do-
8. Mahasha Nahar Singh - -do-
9. Mr. Ghulam Rasool Kar - -do-
10. Mr. Krishan Dev Sethi - -do-

The Land Reforms Officer, Mr. R.C. Raina was co-opted as expert to render assistance to the committee and to work as its Secretary.

25. C.A. Deb. Vol. I No. 4 dated 6th November, 1951 P. 33.

39. 'New Kashmir' undated published by Mr. K. N. Banzai, The Director, Kashmir Bureau of Information, 5 Pethi Raj Road New Delhi. It is page 27 instead of page 47 as given in the C. A. Deb. Vol. I No 4 of 6th Nov. 1951 P. 33.



of such persons as liked to appear before it to depose their point of view on the question of compensation. Accordingly a tour programme was drawn. The Committee started its tour of the villages on November 13th, 1951 and began its work of recording oral evidence of witnesses in Tehsil Baramulla, Kathua, Udhampur, Akhnour and Jammu<sup>2</sup> and finished its tour on the 27th February 1952. Different bodies organizations and men of different interests appeared as witness. The number of such witnesses exceeded 26 thousands.<sup>3</sup> Beside the Committee received the memorandum from different Associations and organizations on that issue. After considering all the suggestions and the view points the Committee prepared the report. The Committee submitted its report on 22nd March 1952.

The report of the Committee is divided into ~~xxxx~~ Introduction, 4 chapters and 3 Appendixes. Introduction deals with terms of reference, personnel ~~xxxx~~ procedure, and questionnaire, tour and record of evidence, decision and the report. Acknowledgement and appreciation of ~~xxx~~ services. Chapter first deals with the general problem of compensation. Under Chapter 2 case of compensation <sup>was</sup> examined. Under Chapter 3 the case for no compensation <sup>was</sup> examined. Chapter 4 contains recommendations of the Committee.<sup>4</sup>

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1. Report of the Land Compensation Committee appointed by the Jammu and Kashmir State Constituent Assembly 1951-52. Appendix B P. 29.

Questionnaire.

1. What is the system of land tenure obtaining in your village, or in the Tehsil or tract in which you live?
2. Can you tell us anything as to how this tenure was evolved?
3. What were the rights and obligations of assamis in the Kashmir Province and the Ladakh and Mirpur districts before the grant of proprietary right in land in 1933?
4. How were the different intermediaries created between the cultivators of the soil and the State?
5. What percentage of land roughly was, in your Tehsil, acquired by way of grants under Ains No. 5 & 6, Pratap Code, Shamlat and Nautors and do you think that any compensation should be paid for the lands so acquired, from which the land-owners are expropriated?



## THE GENERAL PROBLEM OF COMPENSATION

The abolition of the intermediary interest in the land in the State did not envisage the total expropriation of the land owners from their land. It was expropriation from such land as was in the excess of a prescribed unit, as provided in Section 4 of the Big Landed Estate Abolition Act 2007. The effective land-lords in general hold the view that the ~~exten~~ extinction of the right of the ownership (in the Excess land held by them) without payment of compensation, involving as it had the expropriation of their private rights and a restraint on their right to dispose of their property in the manner they liked, was invalid, and that in the present case the compulsory acquisition of land was not for public purposes but for benefitting a small section of the people. The land owner claimed full compensation for the land from which they were expropriated.

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6. Do you think that any compensation should be granted for the land from which the owners are being expropriated, where \_\_\_\_\_
    - (a) land has been purchased or acquired on payment of premium or by sale from the Government, and the investment so made has not been fully recouped?
    - (b) the reclamation and/or improvements made on the land have not so far yielded any margin of profit to the land-owner?
  7. What is the average yield per acre of irrigated and unirrigated land, ~~ap~~ separately, in your Tehsil or tract?
  8. What net income per annum, after defraying the cost of cultivation and the land revenue and other dues for the time being in force accrued, before S. 2005, to land-owners in your Tehsil in case of a holding of one acre of irrigated land and one acre of unirrigated land, separately?
  9. Do you think that compensation should be paid in deserving cases? If so, what should be the criterion and why?
  10. If compensation were to be paid, how would you raise the money? What shall be the scale and the method of payment?
  11. What are your reasons for non-payment of compensation if you hold that view? "



On the other hand, the tillers and some public organizations had held the view that no compensation should be paid because of several reasons. The main reason advanced was, that the proprietors had earned from their land as many times the original investment including the cost of improvements at the expense and the labour of the cultivators who actually tilled their lands. It was argued that the payment of fair compensation was obligatory under the Constitution of India, that the right of the property was the basic and fundamental rights of the citizens which had been protected by the State and the State laws, that the State Land Acquisition Act provided for no land being acquired without payment of compensation, that non-payment of compensation was a denial of moral and social obligations, that, the origin of ownership was immaterial for the determination of the question of the compensation and that no arrangements for rehabilitating the expropriated land-owners had been made by the State Government.

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2. Ibid. P. 30. Appendix 'C'.

The number of persons whose evidence was recorded by the Committee.

Srl. No.	Name of the Tehsil.	Number of persons.
1. Sopore	}	17 - (On behalf of 3,000 tillers).
2. Baramulla		
3. Handwara.		
4. Kulgam	}	26 - (On behalf of 400 tillers).
5. Anantnag.		
6. Jammu	)	14- (on behalf of 5000 tillers and 2 land-owners.)
7. Ranbirsinghpura)		
8. Akhnour		12- (On behalf of 500 tillers and 25 land-owners.)
9. Kathua		56- (On behalf of 3,000 tillers BHAGAT SUKH RAM of Rajpura on behalf of 10,000 tillers. and 38 land-owners.)
10. Jasmargah		
11. Basohli.		
12. Udhampur.		38- (On behalf of 5,000 tillers and 10 land-owners.)
13. Ramnagar		
14. Reasi		Mr. B.N.Nehru, on behalf of the Jammu and Kashmir Agriculturists Association.
15. Whole State		







### CASE FOR COMPENSATION EXAMINED

The members of the Committee agreed that the ~~unmistakable~~ Constitution of India vide Article 31 provided for compulsory ~~acquisition~~ acquisition of property for public purposes on payment of compensation. But that article and in fact the whole of part III - fundamental rights ~~that~~ ~~of~~ of that Constitution was not made applicable to their State. That point had already been set at rest by the authoritative pronouncement of the Hon'ble Justice Jia Lal Kilam in case <sup>6</sup> MAGHAR SINGH Vs PRINCIPAL SECRETARY JAMMU AND KASHMIR STATE. The Committee pointed out that it was true that the property right in land had been recognised by the State and it was also true, that the Land Acquisition Act of the State did provide for payment of compensation for lands acquired for public purposes. But it was to be understood that the acquisition of land under the State Land Acquisition Act was strictly speaking a business deal and the sort of universal acquisition scheme (which had since been enforced) must be governed by entirely different considerations. It was possible to pay full compensation at the market value of the land when the State acquired a small plot for ~~widening~~ widening a road or building a railway or public institutions. But it was neither possible nor desirable to pay compensation when as ~~xx~~ many as 55 lakhs ~~canals~~ acres of lands were taken over.

- (b) Kah Krishnam area, Arks, Kaps and unculturable wastes including those used for raising fuel or fodder; and
- (c) orchards;

provided that the Government may dispose of the lands mentioned in clause (b) in such manner as may be recommended by the Committee that shall be set up for this purpose.

(3) Every proprietor, and in the case of a proprietor who is an evacuee as defined in the Jammu & Kashmir State Evacuees' (Administration of Property) Act, 2006, the Custodian shall have the option, subject to the provision of section 14, to select the land mentioned in clause (a) of sub-section (2)



A measure of economic reform that was vitally necessary in the interest of the community as a whole could not be regarded as a commercial transactions between the individuals. The land owning interests, had in one of their memorandum submitted to the committee, pointed out that instrument of accession governing the accession ~~xxxxx xxxx accession~~ of the State to the ~~dominion~~ Dominion of India provided inter-alia for the payment of the compensation by the Indian Government for any land so acquired, which originally belonged to a proprietor who had been divested of it by the operation of the Abolition Act, had been transferred to a tiller in ~~xxxxxx~~ ownership right it would be inequitable and also ~~incompatible~~ incompatible with the idea of denying compensation to the old proprietors, for the amount of compensation being paid to new land-owners. It would be conceded that all acquisition of land within the State by the Indian Government would be regulated by the provisions of the State Land Acquisition Act, and it was opened to the State Government to laid down, that in case of kind referred to by the proprietor the new tiller-owners receiving compensation did not appropriate it to themselves but had transferred it to the ~~landward~~ Land Department Fund, which under the provisions of the Big Landed Estate Abolition Act was being collected from them ~~xxx~~ as a cess to rehabilitate the cultivators to improve their lands. Infact, the Ministry of Revenue ~~xxxx~~ had already moved in the matter and was considering the necessary amendment to the Land Acquisition Act in that behalf. The Committee pointed out that the Constitution of India had been agreed to by the 4 members of State thereby the accredited representations of their State had accepted the principle of payment of compensation for land acquired by the State could not be construed to ~~amp~~ imply that they had accepted the principle even in ~~xxxxx~~ relation to their own State. They knew that the fundamental rights as contained



in that Constitution had not at all applied to the State. While the Indian Government with its vast resources might be in a position to pay compensation for lands acquired by it, the Kashmir Government had fully conscious of their limitations must needed deal with their problem in their own way in the large interest of the community. The Committee added as between the two the conditions differ, and was practicable or expedient in India might not be practicable or expedient in Kashmir. The leaders of the National<sup>al</sup> conference were being accused of breach of faith. It was said that they wrested 'ownership' from the Maharaja and had got it transferred to the land-holders who, as full proprietors competent to acquire land, had invested large money in land and were being deprived of it by the same leaders who then held the reins of the State Government. The references seemed to be to the confirmment in 1933 by the Maharaja of proprietary right on occupancy tenants including malguzars holding directly under the State and the A-samis in the Provinces of Jammu and Kashmir and the Frontier Districts of Gilgit and Ladakh. The Committee mentioned that while it was true, that the confirmment of proprietary right was the result of political compulsion had brought by progressive forces in the State the National<sup>National</sup> ~~National~~ conference always had held the view, that an unrestricted power of alienation in the hands of poor peasants land-holders in the State was an unmitigated evil. It emphasised that had the Maharaja Government consulted ~~the~~ public opinion in S. 1900 when the Alienation Land Act was for the first time enforced in the Kashmir Province and the Alienation Land Act for the Jammu Province was consolidated, the free transfer of land should have been opposed. The report pointed out that while some attained wealth by mere luck or by sheer dishonesty, many with fair industry and ability could not gain a modest compensation



competence. Some were corrupted by the superfluity of their possession, and other were dwarfed and ~~embittered~~ <sup>embittered</sup> by ~~privation~~ <sup>privation</sup> while on the other hand the Alienation of Land Act had enabled the big proprietors to add to their large Estates and the creditors to take away the land of their debtors towards the liquidation of the accumulated but often farcical debts, on the other hand it had levelled the peasantowner to the position of field labourer, had reduced ~~it~~ his holding and left him famished and poor. The report emphasised that the National Conference always had felt that there should be a ceiling to size of holdings which any one land holder should own and cultivate. It was further pointed out that not to put a ceiling on individual holding would be unjust and un-natural. The Committee examining a concrete case of a big proprietor owning ~~2000~~ ~~xxxx 20x60 2x60~~ 2,060 kanals of land in village Rangarh in the Maidani (Assessment) ~~circle~~ of the Jammu and Kashmir exploded the myth of low return from land which was stressed by the land-owners.

7. Report of the Land Compensation Committee appointed by the Jammu and Kashmir State Constituent Assembly. 1951-52. P.8-9. Return of the land yielded during the comparatively slump year of 1939, and in 1948 when the prices had gone up but were controlled ~~will~~ be revealed by a study would of the area and field statistics tabulated below:-

	Rabi				1939. Kharif.				
	Wheat.	Barley.	Goji.	Vege- tables and other crops.	Paddy.	Maize.	Sugar- cane.	Vege- tables	Others
Area cropped (in kanals)	646	136	31	151	1,108	23	10	9	64
yield (in maunds)	484	119	185	..	2,216	35	..	..	..
maunds) Price in rupees	1,452	238	462	..	5,540	87/8/-	..	..	..
	2,152				5,627/8/-				
	Rs.								
The landlord's share after allowing 10 Per-cent Khausha	2,970								
Income from Cash crops Vegetables etc	450								
Total	3,420								
Land Revenue	800								
Net received by the landlord.	2,620								



The return from the land in 1939 worked out at about 11 % and in 1948 about 50 %. The return would not be less than 40 % after deducting the expenses of the supervision and collection. Thus the net income to the land lord was in addition to what he earned by the sale of fuel and grass from his unclutivated benjar lands which in most cases were not assessed to land revenue.<sup>8</sup> The return from lands even before 1939 had generally be more than 2 %.<sup>9</sup> Rise in price in the ~~xxx~~ past had also been benifitted big landlords.<sup>10</sup> The committee considered that the big land-owners hadgenerally not only recouped the initial investment on land but had also made profits and if any one of them happened to be in debt it was on his own improvidence for which he had to be blamed and not the return that the land owned by him but tilled by others had yield it.

1948.

	Rabi.			Kharif.	
	Wheat.	Barley.	Goji.	Paddy.	maize
Area cropped (in kanals)	906	54	43	985	44
Yield (in maunds).	680	48	33	1,970	50
Price (in rupees)	8,160/	336	330	19,700	500
	Rs.	8,826		Rs.	20,200
The landlord's Rabi share (after Kharif allowing 10 per cent.kharaba)	Rs.3,370	Rs.7,730	Rs.11,100		
	Vegeta- bles.	Rabi Others.	Sugar- cane.	Kharif vegeta- bles.	Hemp Others.

Area under cash and other crops.	15	75	23	23	13	13
Income of the landlord from above.	Rs. 720					
Total	11,810					
Land Revenue paid	810					
Net received by the landlord.	11,000					

8.Ibid. p.10

9.Ibid. p.10

8. Ibid P. 10

9. Ibid P. 10



The Committee mentioned the long chain of intermediaries as between the State and the actual tillers of the soil. These were the Malik Ala (Superior proprietor), Malik Adna (inferior proprietor), the occupancy tenant of grade A, the occupancy tenant of grade B and the sub-tenant. In between might be yet another man as the landlord under the inferior proprietor and under the landlord might be leased holders Mastagir or a Pattadar. And on top might be Jagirdar, the Muafidar and the Illaqadar. By giving xxx number of examples the Committee made it clear that observations in the x statement of the leader of the x House were correct.

#### THE CASE FOR NO COMPENSATION EXAMINED.

The Kisans in general and other various organizations of progressive forces in the State had based their case on the simple truth that the only rightful owner of the land was he who tilled it. They held that the intermediaries were feudal relics and no progress in agriculture was possible without the whole-sale abolition of landlordism in the future pattern of agrarian economy. On the issue of compensation they were equally emphatic and clear that it should not be paid, for it was neither deserved nor possible to be paid. It was further argued that the expropriated land-owners were left with sufficient land to maintain themselves and their dependents, that they had already earned their initial investment and x more from the product of their estates, that the tillers were too poor to pay for the lands which originally belonged to them and that the State with its limited resources could not afford to provide for any compensation at all.

In their oral evidence before the Committee, the representatives of the kisans, whose number was about 26,900<sup>12</sup> unanimously stated that the lands owned by the big proprietors who had been affected by the provisions of the x Abolition Law had all been reclaimed by the cultivators and it was they



The argument that the land ~~seized~~ could not be legally taken away without payment of compensation did not commend itself to the Committee. The High Court had already decided that expropriation without compensation as ~~was~~ legal as expropriation with compensation. History was full of such instances. The Committee refuted the point raised by agriculturist Association in their memorandum that the historical background and the development of landlordism in the State as given by the leader of the House in his opening address to the Constituent Assembly on November 5, 1951 was not supported by any authentic record or by reliable facts. The Committee pointed out that every word of the statement was based on writing of eminent authorities (Dr. Stein and Sir Younghusband) who at some time or other had to deal with the fiscal administration of the state.

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10. Ibid. P.11. In his review of July, 1905, of the Assessment Reports of the valley the then Settlement Commissioner W.S. Talbot, described the effects of the rise in prices since (the last) Settlement and rents in the following words:-

"On the whole I should be inclined to say that prices have risen all around since settlement by not less than 15 per cent and possibly a good deal more. The bulk of the tenants-at-will pay rent in kind, the rate being with very trifling exceptions, one half of the gross produce. The area held on cash rents is too small to be used as a check on the revenue rates worked out; of particular soils an appreciable part is here and there held on cash rents e.g. 4 per cent each of Abi 3 Labru in the Uttarmachhipora Kandi, on an average rent of Rs.3/4/5 and Rs.1/11/9 per acre; and 5 per cent of Abi 2 in the Darmiani Circle of the same Tehsil on Rs.5/14/1.....The case of Gopalpora referred to in para 29 of the Kudgam Report is of interest, but I believe the terms of the lease, which was from one city man to another, have not been quite correctly stated; the parties did not wish the amount to be known, but I understand, the rent fixed at a time of high prices, to have been 650 Khairwars of Shali, and Rs.200/-in cash. The value of the rent to the Assami was not therefore overstated at Rs.1,800/-, though according to our commutation prices it would be very much less. The rates Jama of this village would be about Rs.915/-."



who had ~~been~~ cleared the jungles and the woods, who had brought the barren lands under plough, who had planted the ~~kraks~~ trees, who had constructed the embankments and bunds, who had terraced the fields, who had dug out the water courses and the irrigational channels and who had put in labour to built the Kuthars and the houses of the landlords. All that they did, they said, was done free free not by them alone but also by the members of their families. The Kissans had brought to the notice of the Committee how the Chakdars who received land granted under Alins Nos. 5&6 had got the Chaks cultivated and improved by them, how the gurantees had in some cases appropriated the cultivated lands held by the indigenous tillers to themselves, how they had ~~manipulated~~ manipulated a light assessment of land revenue from Karo-  
 Begar secured the right of ownership for the Government servant even during the currency of the Regular Settlement, how the assami or ownership right in cultivated villages had entered in the name of peasants were transferred to high government servants as for instance to Dewan Amar Nath the Chief Minister of the State, how influential persons and favourites of the ruling family had purchased lands from simple peasant-proprietors on ludicrously low prices and

10. Ibid. p.12.

↳ Maharaja Gulab Singh was said to have confiscated the rights of ownership in the land without compensation as was revealed it in the following note on the assessment report of Mirpur Tehsil dated 1st March 1901 by the then Settlement Commissioner, Capt. J.L.Kaye:-

"A few of the villages have been continued by the Durbar in proprietary right to the descendants of the old ruling families, and some other villages have been acknowledged as enjoyed in proprietary right by certain officials, who have received such rights as a reward for their services, and in a few cases the right has been purchased.

It is usually stated that it was owing to the opposition offered by the Ghakhar and Chib Chiefs that Maharaja Gulabsingh confiscated their rights of ownership in the soil. That is, the Durbar acquired the proprietary rights by conquest. But the villagers generally alleged that it was to put a stop to a constant quarrels between the old ruling families and the cultivators that the confiscation rights took place".

*quite recently the grants made to Jagirdars and other persons have been*

*has been taken away with payment of compensation.*



~~xxxx~~ new Shamilat and ~~xxxx~~ Nauter lands out of the State (Khalsa) wastes were appropriated by the Big Land Lords and ~~xxxx~~ had acquired in ownership even ~~xxxx~~ where they had been brought under plough by the peasants. Some of the proprietors also came to depose their point of view before the Committee and argued that there was no justification for payment of compensation where lands have been acquired free or without rendering any military service and who had spent no money of their land. It was estimated, that under the old Ains Nos. 5 and 6 about 63 thousand acres were granted as Chaks in the Kashmir Province and about 52 thousands acres in Jammu Province out of State land on concessional rates of assessment. The grants under Pratap Code were ~~xxxx~~ entirely made in favour of the Rajputs in the Jammu Province @ one half of revenue demanded. About 28 thousands acres of State land were granted in that manner. Under ~~Raj~~ Raj Tilak (Coronation) Boon No. 4 the land holder were granted Shamilat (village common) from out of the State land equal to the aggregate cultivation land of each village. It was estimated that about ~~xxx~~ 1,77,890 acres were granted in Kashmir and about 3,10,520 acres in the Jammu Province by way of Shamilat. In the Kashmir Valley most of the Nambal areas (Swamps) such as Rakh Asham, Shalabug, Rakh Gund Akhsa, Ranbirgarh, Pratap Garh, Bemina, Narakara, Batamalina and Paharu and the reclaimed areas of the Wular lake were granted as Chaks. Some of the State Rakhs such as Rakh Rara, Rakhpura and Thalora in the Jammu Province were also granted to Rajputs. In that was about 12,1922 acres of land owned by the State were parcelled out to the influential persons and government servants. State ~~had~~ land was similarly were permitted to

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12. Report of the Land Compensation Committee appointed by the Jammu and Kashmir State Constituent Assembly 1951-52. P. 20.  
 13. Ibid.



be used as Araks (fuels preserves). It was estimated that about 22,000 acres in the Kashmir Province and about 45,000 acres in Jammu Province were appropriated in that manner. The Committee felt that free grants, Nautors and Shamilat deserve no compensation. The Committee painfully pointed out that ~~Makxars~~ Nautors made by the Kissan during the successive settlement operations had often been transferred in Assimis or ownership right to the Big & Chakdars, Jagirdars, Assignee or proprietor and that usurpation of their legitimate right was permissible under the mutation Hidayat of the State. It was pointed out that Chakdari had been an institution itself. It has thrived at the expense of the tiller. The State land had been granted to them on various concessions. There were ~~Zar-i-Niazi~~ Zar-i-Niazi, Hamudi, Ishtihari, Ahlikari and Mukarari grants. The Chakdars were also exempted from assessment of a portion of the holding such as Lahri etc. They improperly had employed village cultivators to bring their lands under plough. It was stated that those concessionists could not with any justification claim compensation for the lands from which they were expropriated. The Committee's attention had been drawn to the tenure of lands in the old Chenani Jagir, which was owned by the ~~single~~ single proprietor - the Raja of Chenani. Scion of the ruling family. In Sambat 1974 the Settlement officer refused to recognize the proprietary right in land of the Raja Raja and held that right belonged to cultivators. Same view was endorsed by the settlement Commissioner, Mr. Talbot, who held that a conqueror could not acquire title of land by conquest nor could such title be gifted away in the process of consolidation of power. He pointed out that conqueror could only acquire the right which the vanquished ruler held and enjoyed. But the Maharaja did not agree and postponed the settlement itself and after number of years passed an order declaring the Raja to be the soul owner of lands in 47 villages including the forests the uncultivated wastes and un-cultivated ~~woods~~ woods. The



Committee would be surprised if the Raja - a big proprietor who was effected by the abolition law, were to claim compensation for the lands which had come to in as a wind fall and to which he had neither any legal nor any moral title. Much the same thing had happened about two other large Estates in the State - the one owned by only surviving descendants of Dewan Amar Nath and the other held by Dewan Dhanpat Rai. That was also an instance where the right of ownership of peaceful poor and smallpeasants was extinguished and sacrificed for the appeasement of an influential servant of the State. It was a hard and an un-natural case indeed. Some had same exactly happened in case of Matipora, Shurat and number of ~~many~~ other villages in the State. They asked why in those cases was no compensation ~~was~~ paid to the right holder on the ~~extinction~~ extinction of their right in land. Thus they pointed out that expropriated land-owners did not deserve any compensation for those usurpt lands. The Dewan Fath Chand Sawhney, Settlement Officer, Mirpur and Reasi Districts in 1906 said that the ~~ex~~ sepoys were given certain villages, revenue in lieu of their salary, for which they commuted ghee, corn, clothes, thread and cattle. Those who did not rebel against Maharaja Gulab Singh got Jagirs in Ramnagar, Rajouri and Kotli. Part of ~~Yakkas~~ villages were held in mortgage/ by the State in certain influential persons. Several villages <sup>14</sup> were parcelled out on Nazrana. It did not lie with the vendee proprietors to come and claim compensations for the lands from which they were being expropriated.

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14. Ibid. P. 24. For instance villages Rakh Rajpora, Madu Tirru and Mathura Chak in the Jasmargah Tehsil. Mr. Stow (Settlement Commissioner) wrote in 1922, that much of the land in the Jammu Tehsil was owned by officials either retired or still in service, or had been sold or mortgaged to powerful Ahlikars or money-lenders.



The land acquired on payment of nazran (even in recent years) had ~~yielded~~ yielded the capital investment and also a consideration margin of profit could be substantiated by a concrete case that had been brought to the notice of the Committee. It did not lie with the vendee proprietors to come and claim compensation for the lands from which they were expropriated.

### Recommendations

No case for compensation on the plea of investment on or return from land. ~~We have considered~~ the case for and against the payment of compensation in all its aspects. ~~They~~ <sup>thought</sup> ~~think~~ that the stand of the land-owning interests on the antiquity of the institution of landlordism, the paucity of returns of land-investments, the legal obligation of payment of compensation, the precedents of some of the Indian States, the sanctity of ~~xx~~ property right in land and some other conditions ~~has~~ not stood the test of historical, economic and factual analysis. ~~They~~ <sup>were</sup> ~~are~~ told that it ~~is~~ <sup>was</sup> unnecessary and immaterial to consider the origin of ownership in the matter of compensation. That view should have been correct, had the

15. It pertained to land in Chak Gopalpora in Tehsil Kulgam, which was purchased by Kh. Gani Joo Makru and others against a premium of Rs. 20,000 in S. 1994. The assets were calculated.

Deduction (in Rs.)  
on account of

Year	Value of the produce of paddy & walnut oil etc. at controlled price (in rupees).	Deduction (in Rs.) on account of			Net income (in rupees).
		Land Rev.	Interest on <del>xxxx</del> Capital at 3 % P.A.	Total	
S. 1994	2,770	362	660	1,022	1,748
S. 1995	2,965	362	<del>17</del> 607/8/-	969/8/-	1,995/8/-
S. 1996	4,900	362	547/11/-	909/11/-	3,990/5/-
S. 1997 to S. 1999.	Contract to 18,900	1086	1,285/8/-	2371/8/-	16,528/8/-



tenure of land been uniform, regular, and determinate. ~~They~~ have found, that large areas of State land were acquired by the land-owners without spending a single penny. ~~They~~ have found that no improvements had generally been made by the land-lords on their holdings, and where any improvements had been made, they had been executed at the expense and labour of the cultivator and in any case the landlord, had recouped the cost improvements along with a substantial margin of profit. We have noticed, that in several cases the lands originally owned by indigenous right-holders or reclaimed by cultivators had been taken away from them and appropriated by other persons. To support compensation to such persons will be like telling the tillers that though they morally owned the land they must buy it from those who did not own the land they must buy it from those who had not morally owned it. They agreed, that there were cases of proprietors who had purchased lands in recent years but most of them had made large projects and in any case all these were more speculators in land in the ultimate analysis.

Compulsory acquisition the sovereign power of the State.

The Committee recommended the sovereign power of any State has authority to appropriate for purposes of public utility lands ~~in~~ situate within the limits of its jurisdiction". "and the interests of the public ~~are~~ <sup>will</sup> paramount and to such interests private interests may have to be subordinated where the State think it proper". They pointed out that in restoring the land to the tillers, the proprietors were not ~~any~~ completely expropriated. They retained a fairly good portion of agricultural land and orchards and other reserve to foot. They could not have properly deposited in their houses and hold it in their possession for all time without any regard to the question whether it served any purpose, function of work what soever. The Committee



recommended that by its very nature property had become a social institution and in the interests of social progress it was necessary, if circumstances so demanded, that it should pass on from being the concern of the individual, from being the right of the individuals, to being the right and concern of a large section of their people. Equally, in dealing with the position of the property, they must necessarily have regarded to the nature of the property, the history and the course of enjoyment, the large class of people affected by it and so on. The Abolition Law affected a small percentage of landed interests, <sup>The Committee</sup> ~~they~~ pointed out that ~~why~~ while it expropriated about 10,000 big land-owners in benefits about seven lakhs tillers and simultaneously helped 96 per cent. of their population which depended directly or indirectly on agriculture. <sup>156</sup>

Payment of compensation not desirable.

The Committee recommended that the payment of compensation not desirable. The report of the committee stressed that the tillers to whom excess land from which they big proprietors were expropriated was transferred in ownership right, were and indigent, impoverished and much exploited class by themselves. Thus no question of recovering the price of the lands from them did arise. The report emphasised that as a State with limited resources they were too poor to pay compensation from out of the State revenues. It was further pointed out that the financial liability would be of a very serious nature and payment itself would prove incalculably mischievous. Apart from these considerations there was no moral, economic or social basis for compensation. They, therefore, recommended that both on ~~principle~~ principle and policy, the payment of compensation to the expropriated <sup>157</sup> were not desirable. The payment of compensation would perpetuate the present ~~inequitable~~ inequitable distribution of wealth. Wazir Ram Saran Dass, one of the member of the



case felt that in the ~~absence~~ of expropriated owners who were not able to derive sufficient maintenance from  $22\frac{3}{4}$  acres of land left with them, some sort of maintenance allowance should be considered. His view was that widow, minors, infirm people or the affected land ~~in~~ owners of inferior kinds of land which did not yield sufficient return deserve special consideration, and though no body was entitled to compensation as such, that category of land owners might be granted additional maintenance allow in any form or shape. Subject to this observation by Wazir Ram Saran Dass, their reports and recommendations were unanimous.

#### Religious Institutions.

The last recommendation was pertaining to religious institutions. The members of the Committee felt that the interests of religious institutions as proprietors of land, should be safeguarded. They pointed out that they were aware of the services which were being rendered by most of these institution. Out of the income from lands to the cause of culture, education and human progress. As a result of abolition law their income was sure to <sup>be</sup> reduced and many of their objectives of social value and importance would become incapable of fulfilment. They had realized that large masses of the State possessed very strong sentiments and faith towards various institutions of that character. It was pointed out that it would be both expedient and socially harmful if those facts were not taken due notice of. It was not, however, possible for the Committee to go into necessary details of that question that would by itself form a subject matter of separate investigation. In view of the importance of the questions, the members respectfully recommended to

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16. Ibid. p. 26.



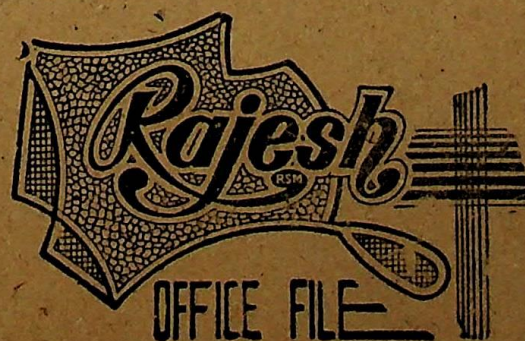
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INTEGRATIONIST MOVEMENT IN INDIAN STATES  
— A STUDY OF JAMMU AND KASHMIR

FILE NO: 65

Integrationist Movement in Indian States  
(A Study of Jammu and Kashmir)

No. 333





## P R E F A C E

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Although India is one geographical entity, yet she never achieved political homogeneity throughout her long and chequered history. A pioneering unsuccessful effort for her consolidation was made by the Magadhau kings Bimbisara and Ajatashtra in the sixth century B.C. About three centuries later i.e. under the Mauryas, and particularly Ashoka, a large portion of India came under the sway of one emperor. But after about a hundred years when Mauryan empire lasted, the country again lapsed into numerous kingdoms. Nearly five centuries later, Chandragupta, and his more illustrious son Samudragupta, brought the major part of the country under their suzerainty. Harsha was, however, able to make himself the undisputed master of north India in the seventh century. All later attempts of political consolidation of the country failed again and again.

Even under these emperors, a diversity of autonomous states constituted the <sup>a</sup>mosic of an empire. The emperor claimed suzerainty over these rulers, who offered allegiance to him, subordinated their foreign policy to his <sup>a</sup>dipomatic moves, usually served him in war, and offered him tributes, but who, in other respects, retained their sovereignty. Whenever the authority of the Emperor weakened, the subordinate rulers asserted their independence. There was a perpetual struggle for supremacy. Mutual <sup>a</sup>jealousies and <sup>u</sup>conflicts made the country an easy prey to an organised invasions.

The Muslims were, thus able to vanguish the Hindu kingdoms in north India in the eighth century. But it was the conquest of the Punjab by Mahmud of Ghazni in the eleventh century that opened the gates of India to the Muslims invaders

Contd...2



from the north West. Delhi had, thus, witnessed as many as five Muslim dynasties and thirty-three sultans till 152b. Ala-ud-Din Khalji was first of the Muslim rulers to conquer practically the whole of India. The Moghuls then appeared on the <sup>scene</sup> ~~serve~~ in 152b. But neither the Sultans nor the Moghuls did away with the the system of subordinate rulers. Not even in the palmiest days of the Hindu and Moghul empires did the entire country come under one political umbrella. The British, however, brought India's enduring political consolidation. This also led to the rise of natural consciousness and for the first time in the country's history and the writ of a single central Government from Kailas to Kanyakumari, from Kathiawar to Kamarupa (the old name of Assam).

There may, however, be an earnest desired among the young scholars as well as the people interested in the story of integration of Indian States (political history) to know about the Integrationist movements going in princely state during the times of culmination of political struggle for freedom in India, just after, and afterwards.

Viewed in this perspective, this project of the Integrationists Movements in Indian States with particular reference to Jammu and Kashmir, which is a sub-system of Indian political system, is in the nature of a micro-study of a political phenomena widely prevalent in the developing societies.

Whereas, the Integrationist Movements in various princely states of India have been widely discussed by various writers, no serious attempt has so far been made to study Integrationist Movements in Jammu and Kashmir in true historical

Contd....3



perspective. As the Jammu and Kashmir State is the only State of Indian Union which got a special status under Article 370 of the Indian Constitution, the significance and relevance of the present study is obvious. ~~xxxxxxxxxxxx~~ As contemporary political history is always controversial and opinion differ on many points, and each opinion has its value and it is only time which separates the facts from fiction. I have also depended on pamphlets and newspapers. — India<sup>and</sup> foreign — in addition to books, as my source material. It makes this work an objectives presentation. Moreover, I have endeavoured<sup>ed</sup> to adhere to a factual narration, avoiding the expression of personal opinions as far as possible. This volume will, therefore, helps the readers to understand more rationally, The main course of political events taking place in the State of Jammu and Kashmir in the recent part.

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The Council of the Muslim League in the session held on August 27, 1939 deplored the treatment meted out to Muslim by the British Government and stressed that the latter desired the support of the Muslims of the world. The demands of Indian Muslims would have to be met. The Council further pointed out that it was necessary to determine their attitude in the event of a world war.



## I N T R O D U C T I O N

August 1939 was a month of International tension and anxiety because the peace of Europe, indeed the whole world hung perilously on a <sup>1</sup>Thread. On August 11, 1939 the Congress Working Committee passed a resolution declaring that, "it was opposed to any imperialist war<sup>2</sup>, and that it was determined to resist any attempt to impose war on India, condemned the sending of troops to Egypt and Singapore and rem<sup>d</sup>ined provincial governments to assist in no way the war preparations of the British Government....." <sup>1</sup>

Despite the unequivocal nature of the Congress resolution of August 11, 1939, there were still some prominent Congressmen who were anxious not to break with Britain. They believed that in a conflict between democracy and freedom on one hand and ~~H~~ascism and ~~a~~gression on the other, their sympathies must inevitably lie on the side of freedom. They, therefore, pleaded that people of India could cooperate in the British War efforts, if His Majesty's Government would give a unilateral assurance that at the end of war full Dominion Status would be conceded to India, which should provide for India's unfettered liberty to frame her own constitution by means of a Constituent Assembly.<sup>2</sup>

The Council of the Muslim League in its resolution dated August 27, 1939 deplored the treatment meted out to Muslim by the British Government and stressed that if the latter desired the support of the Muslims of the World, the demands of Indian Muslims would have to be met without delay. The Council further pointed out that it was premature to determine their attitude in the event of a world war; if a



State of emergency arose the question would be decided by its Working Committee.<sup>3</sup>

However, Britain declared war on Germany on September 3, 1939 when she attacked Poland. Thus, with the outbreak of war an entirely a new situation had been created in Europe in general and in Indian sub-continent in particular.

Simultaneously, Lord <sup>Lin Lithgow</sup> Lailithgow announced that India too was at war with Germany and appealed for their sympathy and support in war efforts.<sup>4</sup> He met Gandhiji, Jinnah and the Chancellor of the Chamber of Princes ~~xxx~~ separately on September, 4.

The Working Committee of the Congress in its September 14, 1939 resolution while expressing sympathy with the democracies and condemning German ~~f~~ascism and aggression, declared that India could not associate herself freely in a war said to have <sup>been fought</sup> ~~fight~~ for democratic freedom so long as that very freedom was denied to her. The resolution further stressed that the war measures had been taken without the consent and against the issues of the Indian people.<sup>5</sup>

The Working Committee of Muslim League in its resolution dated September 18, 1939 expressed deep sympathy with the Allied cause, but warned the British Government that it could count on full Muslim support only on two conditions - The Muslim must be given justice and fair play in Congress provinces and an assurance that no declaration regarding constitutional advance for India would be made, nor any constitution framed, without the consent and approval of the Muslim League.<sup>6</sup>

Contd....3



In its October 10, resolution The All India Congress Committee while repeating its protest against bringing India into the war without the people's consent, stated that Congress did not wish to take any decision precipitately and without giving every opportunity for the British Government to clarify its war and peace aims with particular reference to India. It repeated the request for a declaration of war aims of the British Government.<sup>7</sup>

On October 13, 1939 Viceroy issued a statement repeating<sup>g</sup> the clear and positive policy of the<sup>HQ</sup> Majesty's Government, that Dominion Status was the natural issue of India's progress. He announced that at the end of the War consultations would<sup>f</sup> be made with representatives of several communities, parties and interests in India and with the Indian rulers with a view to securing their aid and cooperation in the framing of such modifications in the details of the plan embodied in the Government of India Act 1935 as might seem desirable. He also announced his intention to set up a consultative groups representative of all major political parties in British India and of the rulers to bring about a closer association of India with the prosecution of the War.<sup>8</sup> But nothing came<sup>out</sup> of this declaration as both the Indian National Congress and Muslim League rejected the viceroy's offer.<sup>9</sup>

The Congress Working Committee at its Wardha session on October 22 and October 23, 1939 decided that it could not give any support to Great Britain, for that would amount to an endorsement of the imperialist policy, which the Congress had always sought to end.<sup>10</sup>



The implications of the viceroy's statement dated October 18, 1939 were discussed with him by the Standing Committee of the Chamber of Princes on January 25, 1940. The ruler demanded that no commitment affecting their rights or interests would be made without their consent. Lord ~~Lithgow~~ <sup>Lithgow</sup> ~~Lithgow~~, however, undertook to honour in full the treaty obligations of His Majesty's Government.<sup>11</sup>

The communal situation by this time had considerably deteriorated and no understanding could be brought about between two major communities - the Hindus and the Muslims. In January, 1940 Jinnah declared that Hindus and Muslims formed two separate nations and that both must share the governance of their common motherland.<sup>12</sup>

The Congress Working Committee met in Patana on February 28, 1940 and reiterated again the inability to participate in a war undertaken for imperialistic ends and affirmed that nothing short of complete independence could be acceptable by the people of India.<sup>13</sup> Muslim League, on the other hand, declared that if the British Government desired the support of the Muslims of the world, the demands of Muslims of India <sup>should</sup> be met without delay.<sup>14</sup>

At the Lahore session of the Muslim League Mr. Jinnah declared that the Muslims nation must have a separate independent state of Pakistan.<sup>15</sup>

At a meeting of the Chamber of Princes held in March, 1940, the rulers declared their determination to render every possible assistance to His Majesty's Government in the prosecution of the War and their complete approval of the war aims of the Allies. At the same times they demanded the preservation of their autonomy and the protection of their rights in the future constitution.<sup>16</sup>

Contd...5



Linlithgow  
Lord Livlithgrow had, always, taken a consistant attitude towards the rulers. He was against doing anything that would alarm or dishearten them. The rulers, in his opinion, were the only solid and dependable element so far as the British relationship with ~~India~~ <sup>were</sup> concerned.<sup>17</sup>

The deadlock in negotiations with Indian leaders of major political parties was, thus, continued.<sup>18</sup> Meanwhile the events took a quick and dramatic turn. Hitler suddenly invaded and <sup>over saw</sup> Norway and Denmark. Holland and Belgium surrendered, France collapsed and the British expeditionary forces had to retreat from Dunkirk. The sudden disaster brought about a change in Government in Britain. In May 1940 Winston Churchill replaced Neville Chamberlain as P.M. and L.S. Amery succeeded the Marquess of Zetland as Secretary of State for India.<sup>19</sup>

On August 8, 1940 Lord Linlithgow advanced some new proposal on behalf of His Majesty's Government. He offered a certain number of seats in the Governor General's Executive Council to representative Indians, proposed that a war advisory council be established containing representatives of the States of British India and proposed that after the conclusion of the war, a body representative of the principal elements of India's national life would be called up to devise the framework of a new constitution. But both the Congress and Muslim League rejected the offer.<sup>20</sup>

By the middle of 1941, a serious change in the War situation had taken place. The Axis Forces had succeeded in rapidly over running Yugoslavia and <sup>at</sup> Greece and in occupying

Contd....6



islands in the Aegean Sea. The viceroy decided that he could no longer afford to follow a policy of wait and see. Since the Congress and the League were determined not to cooperate, he would invite the support of leaders from outside those parties. The ~~mm~~ number of the members of the Executive Council was raised from 7 to 12 and Indian element from 3 to 8, and ~~members~~ were chosen from outside the League and the Congress fold.<sup>21</sup>

*lingrad* Towards the close of 1941, the War situation had changed for the worse. Germany was knocking at the gates of Stalingrad on December 7, 1941 Japan entered the war and within the short period of twelve weeks won remarkable success against what the Japanese propagandists called the A, B, C, D powers i.e. America, Britain, China and Dutch. Singapore surrendered on February 15, 1942. The Japanese naval units were already harassing British Shipping in the Bay of Bengal. On March 7, 1942 Rangoon fell to the Japanese and their troops fanning across Burma. Thus, India was brought direct into the zone of War.<sup>22</sup>

The Working Committee of Congress in its Bardoli resolution said, "....The sympathies of Congress must inevitably lie with the people who are subject of aggression and who are fighting for their freedom, but only a free and independent India can be in a position to undertake the defence of the country on a national basis and be of help in the furtherance of the larger causes that are emerging from the storm of war....."<sup>23</sup>

The exigencies of the war created a demand in Britain and U.S.A. for a new declaration of the policy towards Indian Mr. Churchill himself formulated a scheme in the form of an appeal to the Indian people. He stressed, "India's best and

Contd...7



most representative men from every community, party and province, as well as the princes, should come forward to serve India and to lay the foundations for a new future based on India's complete freedom to control her own destiny within, it is hoped and believed, the fellowship of the British Commonwealth.<sup>24</sup>

Mr. Churchill declared in the House of Common on March 11, 1942 "The crisis in the affairs of India arising out of the Japanese advance..... and the war cabinet was sending out Sir Stafford Cripps to India with a set of proposals to remove the doubts and apprehensions in the mind of Indian parties and convince their leaders how those proposals constitute a far reaching advance towards satisfying Indian aspiration. But Cripps proposal were rejected by Indian National Congress as well <sup>as</sup> Muslim League.<sup>25</sup>

The Congress Working Committee in its resolution of July 1942, demanded that the British rule in India must <sup>be</sup> and immediately and neither settlement of the Communal Tangle, nor effective resistance to foreign aggression, was possible while British authority lasted. The Committee also resolved to launch a mass movement if the British did not withdraw from India. Even the Gandhi - Jinnah talks broke down. The statement was, thus, continued.<sup>26</sup>

*Linlithgow*  
Lord Wavell replaced Lord Linlithgow as Viceroy of India and it was clear that once peace was established, it would be difficult to deny or delay the transfer of substantial power to Indian hands.<sup>27</sup> In December 1943 Jinnah invented a new slogan, "Divide and Quit"<sup>28</sup> Muslim League resolved to

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establish a 'Committee of Action' to organise Muslim ~~call~~ over India to resist the imposition of a unitary constitution and to prepare for the coming struggle for the achievement of R Pakistan. Lord Wavell in the conference of Governors held in August 1944, declared that "His Majesty's Government was pre-occupied with its vast undertakings elsewhere and, so long as the war continued, had little time to devote to Indian political problems. He then appealed to Indian leaders to create <sup>an</sup> the atmosphere of goodwill and mutual confidence."<sup>29</sup>

The general election in Britain in 1945 however, resulted in a resounding victory for Labour party with clear majority in the House of Commons. With <sup>C</sup>lement Attlee as Prime Minister and Lord <sup>A</sup>Pethick. Lawrence as Secretary of State for India. National opinion in India,

India acclaimed the Labour Party's success with jubilation."<sup>30</sup>

Meanwhile the surrender of Japan was accelerated by the dropping off Atom bomb on Hiroshima on August 6, 1945. The end of the War, therefore, brought to the fore the urgency of finding a permanent and lasting solution of India's Constitutional problem. Lord Wavell announced on 19th August, 1945 that "His Majesty's Government are determined" to do their ~~a~~ utmost to promote in conjunction with the leaders of Indian opinion the early realisation of full self-Government in India."<sup>31</sup> But Mr. Jinnah and Liaquat Ali Khan reiterated that no solution would be acceptable except on the basis of Pakistan. The All-India Congress Committee in its resolution of 21 September pointed out that nothing short of independence would satisfy the congress and the country."<sup>32</sup>

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The new year (1946) began with a broadcast message by Lord Pathick. The Secretary of State - that the British Government and the whole British people earnestly desired to see India arise quickly to the full and free status of an equal partner in the British Commonwealth."<sup>33</sup> (Meanwhile a serious incident - the revolt of certain Royal Indian Naval personnel, which was followed by a grave civil turmoil in Bombay - took place) On February 9, 1946 Lord Pethick Lawrence in the House of Lords and P.M. Attlee in the House of Commons made a simultaneous announcement that in view of the paramount importance, not only to India and the British commonwealth, but to the peace of the world, <sup>for</sup> of a successful outcome of discussion with leaders of Indian opinion, His Majesty's Government had decided to send out to India a special mission consisting of the Cabinet Minister to seek, in association with the viceroy, an agreement with those leaders on the principles and procedure relating to the Constitutional issue.<sup>34</sup>

*mean while a serious incident - the revolt of certain Royal Indian naval personnel, which was followed by a grave civil turmoil in Bombay took place. On 18 February 1946 because of untold hardships regarding pay and food, the most outrageous racial discrimination against Indian naval personnel and their commander's derogatory references to their national character, They took possession of some of the ships, mounted the guns and prepared to open fire on the military guards. The strikes and hartals were also organized in Bombay and unruly crowds went about looting and setting fire to banks, slopes, post-offices, police posts and grain shops. The police opened fire several times and army had to be called in to assist in <sup>for</sup> restoration of law and order. Over 200 persons were killed. Its repercussions were also followed in Karachi,*

Contd..10



Madras and Calcutta. Even the Army and Air Force were not altogether unaffected.<sup>35</sup>

On 15th March, 1946 Mr. Attlee announced in the House of Commons, "The tide of nationalism was running very fast in India and it was a time for clear and definite action. The Cabinet Mission -- consisting of three Cabinet Ministers -- was going to India with the intention of using their utmost endeavours to help her to attain freedom as speedily and as fully as possible."<sup>36</sup>

The Cabinet Mission arrived in New Delhi on March, 24, 1946 and left India on June 29, 1946. Its more than three months stay here had been a strenuous period of difficult and sustained negotiations with Indian leaders but without any tangible result. The Mission once again made it clear that the Labour Party in England meant to keep their pledge to withdraw from India as soon as possible.<sup>37</sup> According to Cabinet Mission plan the paramountcy was to lapse and the princes of the States would become free to decide about joining any of the two dominions -- India and Pakistan or to remain independent. The plan was ultimately accepted by the leaders of both the Indian National Congress and the Muslim League.<sup>38</sup>

On February 20, 1947, His Majesty's Government announced their intention of transferring power in British India to Indian hands by June 1948 and sought cooperation from the major political parties in the mission.<sup>39</sup>

There were sharp ideological differences between the Congress and the Muslim League. The Muslim League was basing

Contd...11



its demand that those areas of the British India, which had a majority of the population belonging to Muslim faith should be separated from the rest of the country to form Pakistan. But the Congress leadership was of the view that the country should not be divided <sup>d</sup>merely on a religious basis. They decried the claim of Mr. Jinnah that the Muslims were a nation apart and had no affinity with the Hindus - the majority community - because a large percentage of Indian Muslims were in fact converted from Hinduism. The Cabinet Mission, after having failed to secure an agreement between Congress and Muslim League, formulated its proposals which were announced on May 16, 1945. The plan envisaged the creation of three groups of provinces. Group B comprised the then Punjab, Sind, Baluchistan and N.W.F.P; group 'C' to be comprised Bengal, and Assam, while the rest of British India was grouped together as 'A'. There ~~was~~ <sup>would</sup> be a Federal Government at the centre dealing only with Defence, Foreign Affairs and Communication, with limited financial powers, all residue powers were to be exercised by the groups. Ten years after the promulgation of the Constitution, any state could opt out of the group, and similarly any group could ask for a reconsideration of its relations with the centre. Representation in the Central Legislature was to be on the basis of <sup>population</sup> ~~populatis~~, but certain safeguards were provided to protect important questions affecting Muslims.<sup>40</sup> Both Congress and Muslim League accepted the proposals. But Congress afterward backed out.<sup>41</sup> (The leaders of Muslim League then started making inflammatory speeches, inciting Muslim Community to start religious frenzy, which culminated in unbelievable atrocities, loot, rape, murder and provoked retaliation from the Hindus.)

Thus, political deadlock dragged on from 1946 to 1947.



All efforts of the Congress to avert Partition failed as the League instigated by sympathers in the top echelons of the British bureaucracy in India and Britain, struck out for Pakistan. The leaders of Muslim League then started making inflammatory speeches, inciting Muslim Community to start religious fr<sup>u</sup>nz<sup>y</sup>, which culminated in unbelievable atrocities, loot, rape, murder and provoked retaliation from the Hindus.<sup>42</sup> Finally, the Congress capitulated under heavy pressure and the twin States - the Dominion of India and Dominion of Pakistan (i.e. subsequent <sup>Secular</sup> Democratic India and Islamic, Autocratic Pakistan) were born. <sup>proposed to be</sup> <sup>with Governor-General Mountbatten</sup> *playing the role of midwife.*<sup>43</sup>

In these compelling circumstances, the Indian Independence Act of 1947 providing for partitioning of British India and transfer of power to two new created Dominions - India and Pakistan was passed by British parliament on June 17, 1947. On 14th August, 1947 and 15th August, 1947, thus, Dominion of India and Dominion of Pakistan emerged as two independent States respectively.<sup>44</sup>

As a compromise between the Congress demand for a United India and the Muslim League demand for a separate State of Pakistan, the Cabinet Mission Plan had recommended a weak federal centre confined to defence, external affairs and communications and all powers vested in the provinces.<sup>45</sup>

However, with the secession of the Muslim Majority areas from the rest of India and their constitution into a separate state under the June 3rd Plan, the motive for an attenuated centre disappeared, so far as the relationship of Government of India with the provinces was concerned. The



princely states had acceded with the Indian Dominion on the three subjects i.e. defence, external affairs and communications without any other commitment - financial or otherwise. As the ~~constituent~~ Constituent Assembly was sitting in Delhi and the representatives of all the States were participating in its deliberation, the central leadership thought that a ~~xxxx~~ closer relationship on a wider range of subjects would be forged between the Centre and States. The policy of integration, which started with the merger of the Orissa States with the province of Orissa and the integration of the Kathiawar States into the Saurashtra Union, was an example to the ultimate solution of the States problem.<sup>46</sup> The Government of India ~~xxxxxx~~ intended to take appropriate steps for the complete merger of States with the rest of India well before the new Constitution of India came into force. Thus, the Government of India Act of 1935 was amended by inserting three new sections viz. Sections 61-A, 290-A and 290-B. The merged States with provinces were treated as part and parcel of the provinces in all respects and the new Chief Commissioners of provinces came under the control of the Government of India.<sup>47</sup>

There was also provisions for the setting up of Constituent Assemblies in all the Unions i.e. Union of Orissa States, Saurashtra, Matsya, Rajasthan, Vindhya Pradesh Union, Madhya Bharat Union, Patiala, East Punjab States Union, Travancora-Cochin. The Rajpramukhs of Saurashtra Union executed a fresh instrument according ~~xxx~~ on defence, external affairs and communications with Indian Dominion. Rajpramukh of Rajasthan Union surrendered more subjects from the federal and concurrent ~~lists~~ lists for legislative, by the Dominion ~~xxxxxxx~~



Legislature. So far as Madhya Bharat Union, it was made mandatory on the Rajpramukh to execute an Instrument of Accession according ~~on~~ all the federal and concurrent subjects in Government of India Act 1935 except the entries relating to any tax or duty. Similar provisions were included in the covenant of the Patiala and East Punjab States Unions.

In May 1948, a Conference of Rajpramukhs and Ministers of all Unions was held at Delhi. It was decided that a revised Instrument of Accession should be executed by the Rajpramukhs acceding on all the subjects in the federal and concurrent lists. In June, 1949, the Maharaja of Mysore, with the concurrence of his ministers, similarly executed a revised Instrument of Accession. There were also provisions for the setting up of the Constituent Assemblies in all the Unions i.e. Union of Saurashtra, Matsya, Rajasthan, Vindhya Pradesh Union, Madhya Bharat Union, Patiala, East Punjab States Union, and Travancore Cochin to frame their constitutions. Later on it was realised that it would be unwise and even dangerous to leave the framing of constitutions to local constituent ~~A~~sssemblies without some guidance and coordination by the Government of India. The States Ministry, therefore, set up a Committee in November, 1948 under the Chairmanship of Shri B.N. Rao to frame a model constitution. The Committee drafted a model constitution for the unions and states and recommended that Rajpramukh or the ruler should, where necessary, by a proclamation authorise the assembly of his Union or State to take the model constitution into consideration, that Constituent Assembly should consider the draft and pass a resolution requesting the Constituent Assembly of India to incorporate it in the Constitution of



India. And the ruler or the Rajpramukh as the case may be, should thereafter formally accede to the Indian Union set up by the Constitution of India.<sup>48</sup>

Owing to a number of practical difficulties the procedure suggested by the Rau Committee could not be implemented. The entire subject was discussed in detail with the Chief Ministers of the various Unions and States at a Conference held in Delhi on 19th May, 1949. It was decided that separate Constitution for the several Unions and States ~~were~~ were not necessary and that the Constitution, as framed by the Constituent Assembly of India, should apply to them as well. Accordingly the State <sup>M</sup> ~~Ministry~~ ministry appointed an official Committee to examine the draft constitution of India and to suggest amendments to be incorporated in it with a view to approximating the position of the States and Unions to that of the provinces. The Committee's recommendations were discussed with the Drafting Committee and the amendments were finalized. The amendments affecting the States and Unions were then incorporated in the Constitution. It was decided that the acceptance of the Constitution should be by the Rajpramukh or by the ruler, as the case may be, on the basis of a resolution to be adopted by the C.A. where such body existed - i.e. in case of Saurashtra, Mysore and Travancore - Cochin. In case of Unions, where no C.A. had been set up, the Rajpramukh would issue a proclamation accepting the Constitution ~~as~~ as framed by C.A. of India. In the case of J & K, Yuvaraj Karan Singh, the then ~~Rajpramukh~~ Regent of the State, issued a proclamation ~~xxx~~ that the Constitution of India in so far as it was applicable to the State would



govern the constitutional relationship between that State and India.<sup>49</sup>

The new Constitution of India, therefore, completed the process of the integration of States. If one were asked to name the most important factors that have contributed to the stability of the country, there is little doubt that one would mention at once two factors; the first being the integration of the Indian States and the second a Constitution framed with the willing consent of the people.<sup>50</sup>

The future of the princely States was defined in a memorandum (dated May 12, 1946) on State Treaties and paramountcy presented by the Cabinet Mission to the <sup>C</sup>hancellor of Chamber of Princes in India. The Princes were, therefore, free to accede to one or the other dominion or become independent.<sup>51</sup>

The fate of Indian States was, thus, to be decided by negotiations. The Government of Indian Dominion had entrusted this job to Sardar Vallabhbhai Patel - Iron man with clear vision, firm determination and political sagacity. He was assisted in no less a manner by the astute statesmanship of Lord Mountbatten<sup>n</sup> - the <sup>V</sup>iceroy of India. He had been especially selected by the British Government to pave the way to obtain from the princes the Instrument of Accession of their respective States.<sup>52</sup> As a result all but three States - Junagadh, Hyderabad and J & K - acceded to either dominion by that date.<sup>53</sup>

At the time of the partition of Indian sub-

Contd...17



*continent*  
Constituent, the State<sup>of Jammu and Kashmir</sup> had important international boundaries. To the east was Tibet, to the North-East lay the Sinkiang province of China and Afghanistan. A tongue of Afghanistan territory, Wakhan, is north of Gilgit and is the West of the main route from Gilgit to Kashgar over the Mintake Pass. A few miles <sup>ahead of</sup> had Russian Turkestan. 54 *xxfww*  
J & K State always had a preponderance of Muslims. There were complaints that the majority of the posts both in the Government and Army were being held by Hindus.

In 1932, the All J & K Muslim Conference, with Sheikh Mohammad Abdullah as its moving spirit, was established to fight for the rights of the Muslim community. By 1939 this body shed its communal complexion and changed its name into The All J & K National Conference. It was subsequently affiliated to the All India State Peoples Conference. Repeated campaigns against Maharajah were launched by the National Conference and Sheikh Abdullah was imprisoned on several occasions. 55

In 1946 he organised the Quit Kashmir movement against the Dogra rule and as a result, was sentenced to a long term of imprisonment. By that time he had acquired a considerable hold over the people of the State. 56

After the announcement of the June 3rd, 1947 plan, when Lord Mountbatten was discussing the policy of accession of the Indian States to one Dominion or the other, he became particularly concerned about J & K State - a State with the biggest area in India, with a population predominantly Muslim, ruled over by a Hindu Maharajah. 57



1 Though Maharaja was not convinced with the Viceroy, yet he showed his willingness to continue his talks. But practically avoided doing so.



During this period the sub-continent <sup>e</sup>fall prey to Hindu-Muslim riots and the division of the country had developed a sense of insecurity and anarchy.<sup>58</sup> Lord Mountbathem knew Maharajah well, having been on the Prince of Wales staff with him during his Royal Highness tour 1921-22. He accepted a long standing invitation from Maharajah to visit Kashmir again and went there on June 19, 1947 and stayed there for four days. Lord Mountb<sup>a</sup>atten had met the Maharaja first when he had come to Jammu in connection with the visit of the Prince of Wales and where he had played Polo with the Kashmir ruler. The two were, therefore, friendly and the mission of viceroy was to prompt the Maharaja for acceding to India despite the fact that the State had <sup>26%</sup>~~86-10~~ of Muslim population, most of its borders touched Pakistan, its all rivers flow down to Pakistan and its geographical situation demanded its accession to Pakistan.<sup>59</sup>

During the very first meeting he told Maharaja that "If he wanted to accede to Pakistan, India would have no objection. The Maharaja plainly refused to join Pakistan under any circumstances.<sup>60</sup> Viceroy then said, "If you do not want to join Pakistan, you should accede to Indian Dominion and in that case I am prepare to send one Army divisibn to guard the frontiers of your State."<sup>61</sup> To this Maharaja said, "I do not want to accede to India either I want to remain independent."<sup>62</sup> He told him that independence was not, in his opinion, a feasible proposition and that the State would not be recognised as a Dominion by the British Government. If he did so, he would lose his crown and his Throne.<sup>63</sup> He assured the Maharajah that, so long as he made up his mind to accede to one Dominion or the other

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The Maharaja appeared quite incapable of making up his mind, before his departure from Srinagar. The Viceroy then suggested that there should be a common session of talks between him, the Maharaja, his P.M. and his advisors on the last morning so that the issue of Kashmir's accession was settled. But at the last moment Maharaja, on the pretext of dysentery, send a message that he was confined to bed and begged to be excused.



before August 15, 1947, no trouble would ensue, for whatever Dominion he acceded to would take the State firmly under its protection as part of its territory. He went further to say that in view of the composition of the population, it was particularly important to ascertain the wishes of the people. (The Maharajah appeared quite incapable of making up his mind and Mountbatten asked for meeting with him and his P.M. on the last morning. At the last moment Maharajah sent a message that he was confined to bed and begged to be excused.)

Viceroy, thus, found Maharaja elusive, and returned to New Delhi without having had an opportunity for a final discussion.<sup>65</sup>

According to Mohammad Yusuf Saraf two factors existing at that movement were prima facie important. The first one was Maharaja's personal hatred against Pt. Nehru, who had not been very popular with the Indian Princes because as president of the All India States People's Conference, had not only from time to time been airing grievances of their subjects but also been occasionally attacking the princely order itself and the treaties that protected them. Moreover, his hatred for Sheikh Abdullah, who was publically supported by Pt. Nehru since 1940. Therefore, despite being pronouncedly pro-congress and inherently and basically tied to the wheel of Hindu India, he was wavering in his mind about the State's ultimate political affiliation. In his heart of hearts, he would have liked to accede to India but the fears engendered on account of Congress dominated free India with a very powerful



and authoritarian P.M. Pt. Nehru and his humour instinct of self-preservation pulled its weight against immediate decision of accession to India. Secondly, Pt. Ram Chandra Kak, who was not only hated by Pt. Nehru but also worried that States accession to India would bring the nationalists to power in the State which meant not only the slaughter of his political ambitions but also lead to his disgrace. Mr. R.C. Kak, no doubt believed that State's accession to Pakistan was economically imperative and would help in sparing his country from blood shed, insecurity and economic strangulation yet ~~due to~~ he did not dare to suggest such a course to Maharaja as it would have been dangerous consequences. He was, therefore, advocating a declaration for independence. <sup>(65C)</sup> But Mr. V.P. Menon rightly pointed out that situated as the Maharaja, it was not only for him to come to decision. If he acceded to Pakistan, the non-Muslims of Jammu and Ladakh as well as considerable sections of Muslims led by the National Conference would definitely have resented such action. ~~xxxxxxx~~ On the other hand, accession to India would have provoked adverse reaction in Gilgit and in certain areas contiguous to Pakistan. Furthermore, at least at that time, the road communications were with Pakistan and the forest resources, particularly timber which constituted a considerable portion of the State's revenue, were being transported by rivers which flow into Pakistan. Mr. Menon further added that there was an obvious line of action which Maharaja might have taken. But he being in a Micawberish frame of mind, hoping for the best while continuing to do nothing. Beside he was toying with the notion of an Independent Jammu & Kashmir. <sup>(65C)</sup>

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Even Sardar Patel in his letter to Maharajah dated July 3, 1947 wrote :

"As a sincere friend and well-wisher of the State, I wish to assure you that the interest of Kashmir lied in join<sup>ing</sup> the Indian Union.<sup>66</sup> He further added that "I was greatly disappointed when His Excellency the Viceroy returned without having full and frank discussion with you on that fatal Sunday, when you had given an appointment which could not be kept because of your sudden attack of cholic pain. He had invited you to be his guest at Delhi, and in that also he was disappointed. I had hopes that we would meet here, but I was greatly disappointed when His Excellency told me that you did not avail of the invitation."<sup>67</sup>

Mahatma Gandhi also paid a short visit to Srinagar on August 1, 1947. He met the Maharaja and impressed on him the desirability of acceding to the demand of the people for a constitutional Government but without any concrete results.<sup>68</sup>

Immediately after the transfer of power on August 15, 1947 Lord Ismay went to Srinagar. Lord Mountbatten had asked him to persuade the Maharajah to take one course or the other as soon as possible but nothing came out of Lord Ismay's efforts.<sup>69</sup>

Maharaja, however, was caught on the horns of dilemma whether to accede to Indian Dominion or to Pakistan or to declare J & K ~~as~~ an independent State. Like some of the other princes, he too being carried away by sentimentalism rather than realism and supported by his



advisors and even some of the leaders of the politically conscious groups in the State, fondled with the idea of independence.<sup>70</sup> Mr. R.C. Kak the Prime Minister of the State - g said to have met Mr. Jinnah twice in this connection.<sup>71</sup>

Actually, the situation was such that it was not easy for Maharajah to come to a decision. Mr. V.P. Menon rightly pointed out that if he acceded to Pakistan, the non-Muslim of Jammu and Ladakh as well as considerable section of Muslim led by the National Conference would definitely have resented such action. On the other hand, accession to India would have provoked adverse reactions in Gilgit and certain areas contiguous to Pakistan. Moreover at that time, the road communications were with Pakistan and the forest resources, particularly timber which constituted a considerable portion of the State revenue, were being transported by rivers which flow into Pakistan.<sup>72</sup>

In order to get more time for the final decision of the State's accession, Maharaja offered a stand-still agreement to both the Dominions so that such essential facilities as post and telegraphs, communications etc. might continue to be available and the status quo in respect of customs, currency, import and export, control, defence, foreign relations etc. might be maintained.<sup>73</sup> And Trade links between Kashmir and Pakistan remained undisturbed. It may be recalled that all the trade routs of Kashmir were, thus, connected with those areas which had joined Pakistan and the communication system was also under those areas which had formed a part of Pakistan.<sup>74</sup> Pakistan agreed to it hurriedly whereas the Government of India wanted concurrence



of the people of the State. In spite of that Pakistan not only began to put undue pressure on Maharaja to accede to it but started creating tensions in the region by economic blockade, by cutting the supply of essential commodities. Military pressure was also applied in the form of hit and run boarder <sup>2</sup>raids along 450 miles frontier which rendered the defence of the State ineffective to resist an allout attack on the State.<sup>75</sup> Meanwhile Dewan Shive Lal, retired Deputy Commissioner of Dera Ismail Khan made the following statement about Pak designs in Delhi :

1. About a fortnight back a scheme had been started to send armed tribal people to the Pakistan Kashmir border from Malakand to Sialkot. About five lakhs have moved - more are moving in large numbers. Transported by lorries (civilian as well as military) provided by Pakistan Government, Arms confiscated and seized from non-Muslims in these areas are being supplied to the tribal people. Factories in Frontier are producing more arms and ammunition.
2. States of Dir, Swat and Chitral are also preparing for an attack on Kashmir from the north-west. The Wali of Swat has been promised Kashmir.<sup>76</sup>

Even the people of Kashmir were not ready to bow before <sup>imperialist</sup> important and colonial designs of Pakistan.<sup>77</sup> Meanwhile, some of the Leader of Muslim Conference including Mirwaiz Maulvi Mohd. Yusuf went to Pakistan to exchange ideas with the leaders of Muslim League.<sup>77(a)</sup>

Sheikh Mohammad Abdullah was then released from Contonment jail in Badamibag on September 29, 1947 - along with his



colleagues on the instance of Sardar Vallabh Bhai Patel. Soon after the issue of Kashmir's accession to Indian Dominion or Pakistan assumed serious dimensions.<sup>78</sup> Sheikh Mohammad Abdullah appealed to Pakistan not to precipitate matters but give them time to weigh the issue of accession.<sup>79</sup> He said, "Give Kashmiris enough time to think over the pros and cons of accession to one or the other Dominion and support their immediate demand for freedom from autocracy."<sup>80</sup> At a meeting in Srinagar on October 3, 1947 he said :

"Our choice for joining the Indian Union or Pakistan would be based on the welfare of 40 lakhs of people living in J & K State."<sup>81</sup>

Mr. Dwarkanath in his letter to Pt. Nehru dated October 4, 1947 from Srinagar send<sup>t</sup> him the following information<sup>82</sup> :-

1. Sheikh Sahib and his close associates have decided for the Indian Union.
2. But this decision has not been announced yet and the impression is being given that so far the National Conference have taken no decision.
3. The leaders of the National Conference are mostly in jail and only Sheikh Sahib has been released so far.
4. The stand taken by Sheikh Sahib is that the political prisoners must be released and the Working Committee and the General Council must be allowed to meet to consider the problem and to place their decision before the people.
5. Meanwhile Sheikh Sahib is delivering speeches to educate public opinion and to prepare the people for what seems to be the inevitable decision of the National Conference.



6. Speeches are delivered to show that killings of Hindus and Muslims are un-Hindu and un-Islamic; that the issue of accession cannot be decided by a religious sentiment and that the friends and sympathisers of Kashmiris during these years of struggle or sufferings have been Gandhiji, Jawaharlalji and the Congress and not the Muslims or the League or Mr. Jinnah. Attempts are being made to show that Jinnah and the League have done great harm to the popular movement in Kashmir and that the objective of the League and Mr. Jinnah is the preservation of the Princely Order and feudal oppression.

7. It is also emphasised that the objective of the Kashmir National Conference is the attainment of people's sovereignty with the Maharaja enjoying a constitutional position and that this would be the main factor determining the decision of the Conference in the matter of accession. In short, they would join the Dominion which enables them to achieve these objects or helps them in the achievement of their objective.

8. Another important fact which must be borne in mind is the utter collapse of the administrative and governmental machinery. An atmosphere of fear and insecurity pervades the place. There is no competent or reliable person to talk or negotiate on behalf of the Government or the Maharaja and so far no step has been taken to begin talks with Sheikh Sahib.

9. The Maharaja is incapable of taking a decision and though Sheikh Sahib has written a nice letter to him and the Maharaja too has expressed a desire to meet Sheikh Sahib and his wife, there has really been no move from the Government or the Maharaja.

10. All this has made Sheikh Sahib very uneasy and the continued imprisonment of his colleagues adds all the more to the seriousness



of the position.

11. Sheikh Sahib feels that unless there is a transfer of power to a substantial degree the National Conference may find itself in a difficult position. To fight the League, to maintain law and order inside the State and to carry the masses with them it is highly essential that a settlement with the National Conference should be brought about simultaneously with the accession to the Union.

12. Alternative to the National Conference is undiluted Muslim communalism of the most militant type and the National Conference urges that it be taken into confidence and be closely associated with the governance of the country.

13. This is the demand of the progressive elements amongst the minorities and they also urge that all progressive sections should stand behind Sheikh Sahib and strengthen his hands.

14. The threat to Kashmir is real and unless the Congress takes up a strong stand and forces the Maharaja to come to some agreement with the National Conference Kashmir is doomed and there will be nothing to prevent the conquest of Kashmir by Muslim League leaders and private armies. The Maharaja is doomed and so are the National Conference and the minorities.

15. Sheikh Sahib has received your letter today and tomorrow a reply will be prepared for you.

16. I shall most probably fly back on Monday and shall bring it alongwith me. This letter will be a detailed one and will explain the case of the National Conference.

17. Sheikh Sahib was most anxious to fly to Delhi to meet you but the situation here is such that he cannot leave the place for



some days more. He has therefore asked me to go back in order to explain the whole case to you and Sardar Patel.

18. I hope you will realise the urgency of the situation here and bear it in mind while talking with the representatives of the Maharaja.

19. I need hardly repeat that you realise the whole position much better than most of us but I hope your colleagues will also take a similar view of the situation here."

Sheikh Abdullah said in an interview in Delhi on October 9, 1947 :

"Kashmir cannot immediately decide the question of accession to either Dominion. A quick decision on this issue would be incorrect and unwise too. It is much more necessary at present for Kashmir to secure the establishment of self-Government, so that the people armed with authority and responsibility could decide for themselves where their interest lay.<sup>83</sup>

During this period some Pakistani leaders including Mian Iftikhar-ud-Din, Brigadier Habib-ur-Rehman, Miss Nasira Sadiqui and Dr Tasir came to Srinagar to have talks with Sheikh Mohammad Abdullah. But they felt much disappointed after having met Sheikh.<sup>84</sup> As a follow up, a National Conference delegation led by Mr. G.M. Sadiq went to Lahore to hold talks with the leaders of Muslim League. They met several leaders there. Meanwhile Khawaja Ghulam Nabi Gilkar announced the formation of rebell Government for J & K.<sup>85</sup>

Mr. Jinnah, then, deputed Major Shah - one of the important secretaries of Pak-Government to Srinagar to persuade and to put



(2)

In middle of Oct, 1947, a large column of several thousand tribesmen armed with "bren guns, machine guns, mortars, and flame throws were preparing to attack the frontiers of the State". The Pakistan Govt. reputed the charged that tribesmen were being aided by her. Margaret Bourke White pointed out:

"Certainly these miniature establishments (the small factories in the tribal areas) would hardly explain the mortars, other heavy modern weapons and the two aeroplanes with which the invaders were equipped. In Pakistan towns close to the border arms were handed out before daylight to tribesmen directly from the front steps of Muslim League Headquarters. This was not quite the same thing as though the invaders were being armed directly by the Govt. of Pakistan. Still Pakistan is a nation with one political party - the Muslim League."

1. Anand, Dr. Adarsh Seva: The Development of the Constitution of Jammu & Kashmir op.cit p-88

2. <sup>Bourke-White</sup> Margaret: Halfway to Pakistan Freedom Simon & Schuster, New York 1949 p. 208.



Mr. V. P. Menon rebutted the Pak. leaders plea that tribal invasion of Kashmir was wholly a spontaneous affair<sup>3</sup>. Lord Birdwood rightly remarked that the fact that tribesmen carried a certain amount of equipment and arms which could not have come from the limited means of the tribal factories was a proof of a leakage from Pakistan's regular forces<sup>4</sup>. Moreover, it was an admitted fact that the tribesmen invaded Kashmir from Pakistan territory. Even if Pakistan was not directly aiding the tribesmen, its territory was being used by them for the purposes of the invasion. Mr. W. E. Hall, the leading authority in international law rightly pointed out that "A state must not only itself obey the law, but it must take responsible care that illegal acts are not done within its dominions. Foreign nations have a right to take acts done upon the territory of a state as being prima facie in consonance with its will..."<sup>5</sup>

3. Menon, V. P.: The integration of the Indian states op. cit. P 411

4. Lord Birdwood: Two nations and Kashmir P 53



~~The same view was adopted by the Supreme Court of America in United State vs. Arizona (1887)~~

Even the Supreme Court of America, <sup>while</sup> adopting the same view long ago in United States vs Arizona (1887) laid down: —

"... from the supremacy and exclusiveness of territorial jurisdiction, it follows that is the ~~shully~~ duty of a State, within the bounds the legal responsibility, to prevent its territory and ~~ter~~ territorial waters from being used to the injury of another State..."

The tribal invasion, however, caused great devastation. (~~By Oct. 24th 1947 even the chronic indecision of Maharaja had given place to deep seated alarm and to a genuine concern for his personal safety~~) The raiders were fast approaching Srinagar, the summer capital of J&K. The Dogra army and the national militia comprising national conference volunteers tried to hold the enemy's onrush but protracted resistance to well trained and well

6. Anand, Dr. Adarsh Seem: The development of the constitution of Jammu & Kashmir



equipped invaders, including pakistani regular  
soldiers in white cloths, was ~~at~~ out of  
question. They were pushing ahead destroying  
and looting whatever came there way.  
The whole state was ~~at~~ in imminent peril  
and the maharaja saw his dream of independence  
shattered like a house of cards. 7

7. 2 bid.



pressure on Maharaja to accede to Pakistan because of the facts that its <sup>86%</sup> ~~86-10~~ of population was Muslims, most of its borders touched Pakistan, its all rivers flow down to Pakistan and its geographical situation demanded its accession to Pakistan.<sup>86</sup> But when he failed in his mission, he returned and submitted his report to Pak-Government. Mr. Jinnah, thus, became impatient. In utter frustration and confusion and to secure Kashmir by force, he directed the tribesmen to invade Kashmir.<sup>87</sup> (KCL)

Jammu and Kashmir was, thus, invaded on October 22, by tribesmen from the North-West Frontier province of West Pakistan with the connivance or active support of Pakistan's rulers. (BS) Sheikh Mohammad Abdullah said :-

"The invaders who came in the name of Pakistan to make us believe that they were true servants of Islam, scorched our land, ruined our homes, despoiled the honour of our women and devastated hundreds of villages. These lovers of Pakistan dishonoured our mosques which they turned into brothels to satisfy their animal lust....with abducted women."<sup>88</sup>

He flew to New Delhi to appeal to Indian Cabinet to despatch armed forces to help Kashmiris to repel the invaders. The Maharaja also alarmed by the early success of the invaders and the devastation caused by them, appealed to India for <sup>military</sup> ~~military~~ help on October 24, 1947.<sup>89</sup> In a letter to Sardar Patel, Meher Chand Mahajan, the then Prime Minister of the State wrote :

"The situation in the State at the present moment is such that one cannot get a single moment to think of politics. We are practically working on a war basis and every



minute of our time is taken up with the border situation which is worsening everyday."<sup>90</sup>

The Government of India made it clear to the Maharaja ~~xx~~ that it could not accede to his request for military help until he offered his state's accession to India.<sup>91</sup> A meeting of Defence Committee was held on October 25 morning to consider ~~ed~~ the request of Maharajah Lord <sup>Mountbatten</sup> ~~Mounthalen~~ emphasized that no precipitate action should be taken until Government of India had fuller information.<sup>92</sup> V.P. Menon, Secretary of the State Ministry Government of India was sent to Srinagar to explain the position to the Maharaja.<sup>93</sup> Impressed by the gravity of the situation, Menon felt that unless India could help immediately, the valley would be lost.<sup>94</sup> As a result of Menon's assessment of the situation, the Maharaja left Srinagar with his wife and son. The Defence Committee of the Government of India considered the situation in Kashmir and the request made by the Government of Jammu and Kashmir State for help against the raiders who had entered their territory and caused great loss and the suggestions that the Kashmir State should accede to India was also considered. The Committee came to the following conclusion :-

- "1. In view of the request made by the Kashmir Government for help against raiders who have entered their territory, the Government of India have decided to give such help. In further<sup>a</sup>ence of this decision they are sending troops by air tomorrow to Srinagar. They intend reinforcing these troops by air as well as by the ~~defence~~ land route via Jammu, as the defence of Kashmir has become their responsibility now and they intend to discharge it to the best of



their ability.

2. His Highness the Maharaja, in accordance with his wishes and the wishes of a large number of his people, will agree to J & K State according to the Indian Dominion. The Government of India will accept his accession provisionally subject to their declared policy that such matter should be finalised in accordance with the will of the people. Any reference to the people can only take place when law and order have been fully established.
3. H.H. the Maharaja will invite Sheikh Abdullah to form an interim Government after the Mysore pattern".<sup>95</sup>

The decision of the Defence Committee was subsequently confirmed by the Cabinet on October 26, 1947.<sup>96</sup>

Maharaja of Kashmir then wrote the following letter to Lord Mountbatten - the G.G. of India on October 26, 1947<sup>97</sup> :-

"My dear Mountbatten,

I have to inform your Excellency that a grave emergency has arisen in my State and request immediate assistance of your Government.

As your Excellency is aware the State of Jammu and Kashmir has not acceded to the Dominion of India or to Pakistan. Geographically my State is contiguous to both the Dominions. It has vital economical and cultural links with both of them. Besides, my State has a common boundary with the Soviet Republic and China. In their external relations the Dominions of India and Pakistan cannot ignore this fact.



I wanted to take time to decide to which Dominion I should accede, or whether it is not in the best interests of both the Dominions and my State to stand independent, of course with friendly and cordial relations with both.

I accordingly approached the Dominions of India and Pakistan to enter into Stand-still Agreement with my State. The Pakistan Government accepted this Agreement. The Dominion of India desired further discussions with representatives of my Government. I could not arrange this in view of the developments indicated below. In fact the Pakistan Government are operating Post and Telegraph ~~system~~ system inside the State.

Though we have got a Standstill Agreement with the Pakistan Government that Government permitted steady and increasing strangulation of supplies like food, salt and petrol to my State.

Afridis, soldiers in plain clothes, and desperadoes with modern weapons have been allowed to infiltrate into the State at first in Poonch and then in Sialkot and finally in area adjoining Hazara District on the Ramkot side. The result had been that the limited number of troops at the disposal of the State had to be dispersed and thus had to face the enemy at the several points simultaneously, that it has become difficult to stop the wanton destruction of life and property and looting. The Mahora power-house which supplies the electric current to the whole of Srinagar has been burnt. The number of women who have been kidnapped and raped makes my heart bleed. The wild forces thus let loose on the State are marching on with the aim of capturing Srinagar, the summer Capital of my Government, as first step to overrunning the whole State.



The mass infiltration of tribesmen drawn from the distant areas of the North-West Frontier coming regularly in motor trucks using Mahsehra-Muzaffarabad Road and fully armed with up-to-date weapons cannot possibly be done without the knowledge of the Provincial Government of the North-West Frontier Province and the Government of Pakistan. In spite of repeated requests made by my Government no attempt has been made to check these raiders or stop them from coming to my State. The Pakistan Radio even put out a story that a Provisional Government has been set up in Kashmir. The people of my State both the Muslims and non-Muslims generally have taken no part at all.

With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government. The other alternative is to leave my State and my people to free-booters. On this basis no civilized Government can exist or be maintained. This alternative I will never allow to happen as long as I am the Ruler of the State and have life to defend my country.

I may also inform your Excellency's Government that it is my intention at once to set up an interim Government and ask Sheikh Abdullah to carry the responsibilities in this emergency with my Prime Minister.

If my State has to be saved immediate assistance must be available at Srinagar. Mr. Menon is fully aware of the situation

Contd...33



and he will explain to you, if further explanation is needed.

In haste and with kindest regards.

Yours Sincerely,

HARI SINGH

In the Defence Committee meeting of the morning of 26 October, 1947 Lord Mountbatten said that it would be improper to move Indian troops into what was at that moment an independent country, as Kashmir had not then decided to accede to either India or Pakistan. He added that if Maharaja was anxious to accede to India, the J & K State would become part of Indian territory. That was the only basis on which Indian troops could be sent to the rescue of the State from further pillaging by the aggressors. He further expressed the strong opinion that, in view of the composition of the population, accession should be conditional on the will of the people being ascertained by a plebiscite after the raiders had been driven out of the State and law and order had been restored. This was readily agreed to by Pt. Nehru and other ministers.<sup>98</sup>

V.P. Menon then flew back to Jammu. On arrival at the Jammu palace he found the Maharaja was asleep. Menon woke him up and told him of what had taken place at the Defence Committee meeting. He was ready to accede at once. He then composed a letter to the Governor-General describing the pitiable plight of the State and reiterating his request for military help. He further informed the Governor-General that it was his intention to set up an interim Government, at once <sup>and</sup> to ask Sheikh Abdullah to carry the responsibilities in this emergency with Mehr Chand Mahajan - his P.M. He concluded by saying that if the State was



be ok  
to save, immediate assistance must be available at Srinagar. He also signed the Instrument of Accession. He told Menon that before he went to sleep, he had left instruments with his ADC that if Menon came back from Delhi, he was not to be disturbed as it would mean that Government of India had decided to come his rescue and he should therefore be allowed to sleep in peace, but if he failed to return, it meant that everything was lost and, in that case, his ADC was to shoot him in his sleep.<sup>99</sup> Menon returned with the instrument of accession duly executed and a request for troops, arms and ammunition. The executed Instrument of Accession is as under 100 :-

The Palace, Jammu  
26th October 1947.

#### INSTRUMENT OF ACCESSION

Whereas the Indian Independence Act, 1947, provides that as from the fifteenth day of August 1947, there shall be set up an Independent Dominion known as INDIA, and that the Government of India Act, 1935 shall, with such omission<sup>s</sup>, additions, adaptations and modifications as the Government-General may by order specify, be applicable to the Dominion of India.

And whereas the Government of India Act, 1935, as so adapted by the Governor-General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof.

Now, therefore, I Shriman Inder Mahander Rajrajeswar Maharajadhiraj Shri Hari Singhji, Jammu and Kashmir Naresh Tatha Tibbetadi Deshadhipathi, Ruler of Jammu and Kashmir State, in the exercise of my sovereignty in and over my said State do hereby

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execute this my Instrument of Accession and

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu and Kashmir (hereinafter referred to as "this State") such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India, on the 15th day of August 1947, (which Act as so in force is hereafter referred to as "the Act").

2. I hereby assume the obligation of ensuring that due effect is given to provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

3. I accept the matters specified in the schedule hereto as the matters with respect to which the Dominion Legislature may make law for this State.

4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor-General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed to form part of this Instrument and shall be construed and have

Contd...36



effect accordingly.

5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or the Indian Independence Act, 1947, unless such amendment is accepted by me by Instrument supplementary to this Instrument.
6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purpose of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request require the land at their expense, or if the land belongs to me transfer it to them on such terms as may be agreed or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.
7. Nothing in this Instrument shall be deemed to commit in any way to acceptance of any further Constitution of India or to fetter my discretion to enter into agreement, with the Government of India under any such future constitution.
8. Nothing in this Instrument affects the continuance of my Sovereignty in and over this State, or, save as provided by or under this Instrument, the exercise of any powers, authority and right now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.
9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of this State is to be construed as including a reference to my heirs and successors.



Given under my hand this 26th day of October, nineteen hundred and forty-seven.

HARI SINGH  
Maharajadhiraj of Jammu  
and Kashmir State

In his own words :

"Give army, take accession and give whatever power you want to popular party, but the army first fly to Srinagar this evening. Otherwise, I will go and negotiate terms with Jinnah as the city must be saved."<sup>101</sup>

With the Instrument of Accession and the Maharajah's letter V.P. Menon flew back at once to Delhi. Sardar Patel was waiting at the aerodrome and both of them went straight to the meeting of the Defence Committee. There was a long discussion, at the end of which it was decided that the accession of J & K should be accepted, subject to the proviso that a plebisute would be held in the State when the law and order situation allowed. It was further decided that an infantry battalion should be flown to Srinagar next day. This decision had the fullest support of Sheikh Mohammad Abdullah, who was in Delhi at that time and who had been pressing the Government of India on behalf of J & K National Conference for immediate help to be sent to the State to resist the tribal invasion.<sup>102</sup>

The G.G. of Indian Dominion then gave the following acceptance to the Instrument of accession :-

ACCEPTANCE OF ACCESSION BY THE GOVERNOR-  
GENERAL OF INDIA



I do hereby accept this Instrument of Accession.

Dated this twenty seventh day of October, nineteen hundred and forty-seven.

MOUNTBATTEN OF BURMA

Governor-General of India

After accepting the Instrument of Accession, Lord Mountbatten wrote a personal letter to Maharaja, in reply to his letter which had accompanied the Instrument of Accession. He wrote :

"....My Government have decided to accept the accession of Kashmir State to the Dominion of India. In consistence with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order have been restored in Kashmir and its soil cleared <sup>of</sup> by the invader, the question of State's accession should be settled by a ~~see~~ reference to the people."<sup>103</sup>

According<sup>ly</sup> ~~to~~ Dr Adersh Sain Anand, C.J. of India is of the view that "this statement does not and cannot effect the legality of accession which was sealed by India's official acceptance. This statement is not a part of the Instrument of Accession."<sup>104</sup> Mr. Mehar Chand Mahajan, the former Chief Justice of India, however, observed :

"The Indian Independence Act did not envisage conditional accession. It could not envisage such a situation as it would be outside the parliament's policy. It wanted to keep no Indian state in a State



of suspense. It conferred on the rulers of the Indian States absolute power in their discretion to accede to either of the two Dominions. The Dominions Governor-General had the power to accept the accession or reject the offer but he had no power to keep the question open or attach conditions to it.<sup>105</sup>

The only documents relevant to the accession were the Instrument of Accession and the Indian Independence Act and as the constitutional documents did not contemplate any conditions. There can be no question of the accession having been ~~xxxxxxx~~ conditional.<sup>106</sup> In the words of Mahajan :

"Finality which is statutory cannot be made contingent on conditions imposed outside the powers of the Statute. Any <sup>mitigates</sup> ~~mitigates~~ <sup>under</sup> ~~under~~ which ~~mitigates~~ against the finality <sup>is</sup> ~~is~~ clearly ultra vires and has to be rejected.<sup>107</sup>

The announcement of Jammu & Kashmir's accession to India caused great amazement among Pakistan leaders and rulers. Mr. Jinnah was <sup>of</sup> the view that the accession of J & K State was not bonafide one since it rested on "fraud and violence" and would never be accepted by Pakistan.<sup>108</sup> Mr. Jinnah ordered the Nation's land forces to immediately occupy Jammu. But when the military Secretary to Governor-General conveyed the orders to the then acting Commander-in-Chief General Gray, he refused to implement the orders without the permission of General Auckinleke who was Supreme Commander of joint<sup>t</sup> Indo-Pakistan Army.<sup>109</sup> However, Pakistan refused to recognise this accession. Mr. Liaquat Ali Khan said :



"We do not recognise this accession. The accession of Kashmir to India is a fraud, <sup>perpetuated</sup> ~~perpetrated~~ on the people of Kashmir by its cowardly <sup>Rule</sup> ~~Rule~~ with the ~~aggressive~~ <sup>aggressive</sup> help of Indian Government (Dawn-Karachi 5-11-1947).

A few days later the same Newspaper quoted the P.M. of Pakistan said :

"There is not the slightest doubt that the whole plot of accession of Kashmir to India was preplanned. It cannot be justified on any moral or political ground." <sup>///</sup>  
(Ibid 17-11-1947)

The P.M. of Pakistan - Mr. Liyakat Ali Khan on the other hand rushed from Karachi to Lahore where he had convened a meeting of political and army officers. The army officers ~~XXXXXXX~~ again suggested that Pakistan should immediately occupy Jammu. But P.M. did not agree on the plea that it would give India a pretext to launch an attack on Pakistan which could create severe danger for Pakistan. Instead they decided to help the invading tribesmen by providing them with more ammunition and arms and sending more men to fight in Kashmir. <sup>112</sup>

The All J & K National Conference leadership had rejected the possibility of J & K State's accession to Pakistan because Pakistan had committed an act of aggression against the State and also because the principle on which it was brought into existence and its social and economic structure ran counter to the ideals and objectives which the popular leaders of the State had set for themselves. <sup>113</sup> The decision on accession to Indian Dominion was also endorsed at a special



convention of the party held in October, 1948.<sup>114</sup> Its resolution ran "this convention has given its serious thought to the question of accession and has examined it in all its aspects and detail. After mature consideration of the issue it is definitely of the opinion that Kashmir, with its unflinching faith in New Kashmir and with the very advanced outlook of the people on the <sup>e</sup>fundamental issues, cannot find its proper place in Pakistan, which today has become the main citadel of reaction and decaying feudalism.... Pakistan with its basis in the two-nation theory and its persistence in the perpetuation of religious distinctions does not and cannot accommodate a programme and an outlook which is the very negation of its basis and conceptions of social justice."<sup>115</sup>

The State of Jammu and Kashmir, thus, became an integral part of Indian Dominion in October, 1947. In their capacity as Indian nationals, the representatives of the State took part in the deliberation of the Constituent Assembly of India. The Constitution framed by the Consenbly conferred a special status on the state and gave it the right to frame its own Constitution.<sup>116</sup>



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